

State of Iowa

Iowa

Administrative

Code

Supplement

Biweekly
November 28, 2012



STEPHANIE A. HOFF
ADMINISTRATIVE CODE EDITOR

Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Soil Conservation Division[27]

Replace Chapter 10

Blind, Department for the[111]

Replace Chapters 1 to 3

Replace Chapter 6

Replace Chapters 8 to 11

Replace Chapter 13

Engineering and Land Surveying Examining Board[193C]

Replace Chapter 8

Education Department[281]

Replace Analysis

Remove Reserved Chapters 61 and 62

Insert Chapter 61 and Reserved Chapter 62

Replace Chapter 79

Professional Licensure Division[645]

Replace Chapter 326

Dental Board[650]

Replace Analysis

Replace Chapter 20

Revenue Department[701]

Replace Analysis

Replace Chapter 80

Replace Chapter 226

Replace Chapter 239

Secretary of State[721]

Replace Analysis

Replace Reserved Chapters 44 and 45 with Reserved Chapter 44

Insert Chapter 45

Treasurer of State[781]

Replace Analysis

Replace Chapter 3 with Reserved Chapter 3

CHAPTER 10
IOWA FINANCIAL INCENTIVE PROGRAM FOR SOIL EROSION CONTROL
[Prior to 12/28/88, see Soil Conservation Department, 780—Ch 5]

27—10.1 to 10.9 Reserved.

PART 1

27—10.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation, Iowa department of agriculture and land stewardship in accordance with the policies of the state soil conservation committee in implementing the state's financial incentive program for soil erosion control. It also establishes standards and guidelines to which the soil conservation districts shall conform in fulfilling their responsibilities under this program.

27—10.11(161A) Rules or subrules are severable. If any provision of a rule or subrule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or subrule which can be given effect without invalid provision or application, and to this end the provisions of these rules or subrules are severable.

27—10.12 to 10.19 Reserved.

PART 2

27—10.20(161A) Definitions.

“Administrative order” means a written notice from the commissioners to the landowner or landowners of record and to the occupants of land informing them they are violating the district's soil loss limit regulations or maintenance agreement and advising them of action required to conform to the regulations.

“Allocation” means those funds that are identified as a district's share of the state's appropriated funds that have been distributed to a particular program.

“Applicant” means a person or persons requesting assistance for implementing soil and water conservation practices.

“Appropriations” means those funds appropriated from the general fund of the state and provided the division of soil conservation for funding the various incentive programs for soil erosion control.

“Case file” means a record that is assembled and maintained for each application approved for state cost sharing.

“Certification of practice form” means a signature page used to attest that a practice was installed, performed or maintained in accordance with applicable standards.

“Certifying technician” means the district conservationist of the Natural Resources Conservation Service (NRCS) or the district forester of the department of natural resources.

“Commissioner” means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of Iowa Code chapter 161A.

“Committee” or *“state soil conservation committee”* means the committee established by Iowa Code section 161A.4, as the policymaking body of the division of soil conservation.

“Complaint” means a written and signed document received by the commissioners from a landowner or occupant of land stating that said property in the district is being damaged by sediment resulting from soil erosion on the property of another named landowner.

“Conservation cover” means that if a tract of agricultural land has not been plowed or used for growing row crops at any time within the prior 15 years, it shall be classified as agricultural land under conservation cover.

“Department” means the department of agriculture and land stewardship as established in Iowa Code chapter 159.

“District” or *“soil and water conservation district(s)”* means a governmental subdivision of this state organized for the purposes, with the powers, and subject to the restrictions set forth in Iowa Code chapter 161A.

“District cooperator” means an individual or business that has entered into a cooperator’s agreement with a district for the purpose of planning, applying, and maintaining the necessary soil and water conservation practices on land under control of the individual or business.

“Division” means the division of soil conservation as established and maintained by the department pursuant to Iowa Code section 159.5(15) and administered pursuant to chapter 161A.

“Excessive erosion” means soil erosion that is occurring at a rate exceeding the established soil loss limit.

“Fiscal year” means the state fiscal year for which program funds were appropriated.

“Landowner” includes any person, firm or corporation, partnerships, estates, trusts, or any federal agency, this state or any of its political subdivisions, who shall hold title to or have legal control over land lying within a district.

“Maintenance/performance agreement” means an agreement between the recipient, the landowner, and the district. The recipient and landowner agree to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient and landowner will maintain, repair, or reconstruct the practices if they are not maintained according to the terms specified in the agreement. The terms of the agreement shall be specified by the division.

“Obligated funds” means those moneys that are set aside out of the district’s allocation or by the division for payment to a landowner after the commissioners have approved an application for financial incentives.

“Power of attorney” means a legal document that grants a person the right to act on behalf of the landowner.

“Recipient” means a landowner or district cooperator who has qualified for and received financial incentive payments for implementing soil and water conservation practices.

“Road” means the entire width between property lines of the publicly owned right-of-way.

“Row cropped lands” means land that is in an established rotation sequence that includes row crops and the sequence is actively being followed or is in consecutive row crop sequence.

“Soil conservation practices” means any of the practices which serve to reduce erosion of soil by wind and water on land used for agricultural or horticultural purposes and approved by the state soil conservation committee.

“Soil loss limit” means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts have established by rule as acceptable.

“State soil survey data base for Iowa” means a listing of the soil map units for each county and the properties and interpretation for each of the map units.

“Supplemental allocation” means additional funds provided beyond the original allocation.

“Supplementary administrative order” means a written notice sent to those receiving an administrative order for violation of the district’s soil loss limit regulations advising that cost-share funds are being committed to the landowner or landowners and establishing time limits for correcting the soil erosion problems.

“Technician” means a person qualified to design, lay out and inspect construction of soil conservation practices, and who is assigned to or employed by a soil and water conservation district.

“Unobligated funds” means those cost-share moneys the districts have been allocated and those the division administers that have not been obligated.

[ARC 8766B, IAB 5/19/10, effective 7/1/10; ARC 0224C, IAB 7/25/12, effective 8/29/12]

PART 3

27—10.30(161A) Compliance, refunds, reviews and appeals. This division establishes rules for determining landowner or farm operator compliance with performance or maintenance agreements that have been entered into as a result of receiving financial incentive payments for implementing soil conservation practices. This division also defines the responsibilities of the districts and the division for obtaining refunds from landowners or farm operators, and procedures to be followed, when it is found that temporary practices are not being performed in accordance with funding agreements.

This division also defines the responsibilities of the districts and the division for requiring maintenance, repair or reconstruction of permanent soil and water conservation practices when it is found that permanent practices are not being maintained in accordance with funding agreements.

27—10.31(161A) Compliance with maintenance/performance agreements.

10.31(1) *Performance agreement.* Rescinded IAB 7/18/07, effective 6/27/07.

10.31(2) *Maintenance/performance agreement.* As a condition for receipt of any financial incentives funds for implementing soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for the term specified in the maintenance/performance agreement. Specific conditions of the agreement are detailed on the form.

a. Determination of practice implementation and continued compliance with maintenance/performance agreements.

(1) The certifying technician or the technician of the district will determine if the completed practice is in compliance with applicable standards and specifications in Part 8 of these rules. The certifying technician shall attest to completion and compliance with the standards by completing and signing a certification of practice form. The completed certification will be retained in the district case file for the appropriate landowner.

(2) The certifying technician or district technician shall inspect the practice at any time the district commissioners have reason to believe it is not being satisfactorily maintained. The division will evaluate the situation to determine that proper procedures were followed. "Satisfactorily maintained" means being maintained in such a state of repair so that the practice is successfully performing the function for which it was originally installed. Following the inspection, the certifying technician shall complete a certification of practice form. The completed certification shall be filed in the district's case file for the landowner.

(3) The district shall inspect a practice whenever requested to do so by the landowner. The person requesting the inspection shall be provided a copy of the completed certification of practice form, used to document the results of this inspection.

b. Determination of noncompliance with maintenance/performance agreement. If the certifying technician determines that the practice is not being satisfactorily maintained, it shall be so noted on the certification of practice form. The district shall notify the division in writing of the noncompliance finding. The notification to the division shall contain a complete explanation of why the practice is considered not to be in compliance with the maintenance/performance agreement. The division will evaluate the situation to determine that proper procedures were followed. "Satisfactorily maintained" means the practice has been maintained in such a state of repair that it is successfully performing the function for which it was originally installed.

c. In the event that properly maintained practices that were installed with the assistance of Iowa financial incentive program funds are damaged due to natural disasters, completing the maintenance/performance agreement shall not constitute an action or intent on the part of the division to prevent the owner of the land on which the practices were installed from receiving federal emergency conservation program assistance to repair or replace the practices.

27—10.32(161A) Noncompliance.

10.32(1) *Noncompliance with performance agreements.* Rescinded IAB 7/18/07, effective 6/27/07.

10.32(2) *Refunds for noncompliance with maintenance agreements to cost-share agreements entered prior to July 1, 1981.* Rescinded IAB 7/18/07, effective 6/27/07.

10.32(3) *Refunds for noncompliance with maintenance agreements entered between January 1, 1981, and July 1, 1982.* Rescinded IAB 7/18/07, effective 6/27/07.

10.32(4) *Noncompliance with maintenance/performance agreements.* Upon determination by the district and the division that a landowner is not in compliance with a maintenance/performance agreement, the division shall assist the district in the issuance of an administrative order to the landowner requiring appropriate maintenance, repair or reconstruction of the practice, provided voluntary means have been exhausted. The district, in its sole discretion, may allow the landowner or the landowner's successors to refund to the division the entire amount of the financial incentive payment received by the landowner in lieu of maintaining, repairing or reconstructing a practice.

a. Within 60 days from the date of issue of the administrative order, the landowner shall submit to the district a written and signed statement of intent to maintain, repair or reconstruct the practice.

b. The maintenance, repair or reconstruction work shall be initiated within 180 days from the date of issue of the administrative order and shall be satisfactorily completed within one year of the date of issue of the administrative order.

10.32(5) *Agricultural land converted to nonagricultural land.* If land subject to a maintenance/performance agreement is converted to a nonagricultural use that does not require a permanent soil and water conservation practice which has been established with financial incentives, the practice shall not be removed until the owner refunds the appropriate amount of the payment received.

a. Amount of refund. The amount of refund will be the amount of the financial incentive payment received less 5 percent for each year the practice was in place.

b. Districts will notify the division when such refunds are collected.

c. Refunds will be made to the division. The division will deposit refunds to the appropriate district account. Use of the refunds will be limited to providing financial incentives under this chapter.

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the district commissioners or the division of soil conservation. Appeals to the state soil conservation committee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

10.33(1) Review with soil and water conservation district commissioners. When a landowner or farm operator wishes to appeal an order to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement, the landowner or farm operator may request a review of the order with the district commissioners. The commissioners shall schedule a meeting to review the issue with the landowner or farm operator. This proceeding shall be informal. A landowner or farm operator shall request a review with the district commissioners in writing and within 30 days following receipt of their order.

10.33(2) Review with the division of soil conservation. After having unsuccessfully met with the district commissioners, a landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. A landowner or farm operator shall request the review with the division in writing within 30 days following the review with the district.

10.33(3) Appeal to the state soil conservation committee. In those cases where the district, landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to maintain, repair or reconstruct a temporary or permanent practice covered by a maintenance/performance agreement, the district, landowner, or farm operator may appeal the division's decision to the state soil conservation committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make the appeal to the state committee in writing within 30 days following completion of the division's review.

10.33(4) The committee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

27—10.34 to 10.39 Reserved.

PART 4

27—10.40 Reserved.

27—10.41(161A) Appropriations. The department of agriculture and land stewardship, division of soil conservation, has received appropriations for conservation cost sharing since 1973 and appropriations to fund certain incentive programs for soil erosion control since 1979. Funds are appropriated each year by the general assembly.

The division has four years to encumber or obligate these funds before they revert to the state's general fund. This rule addresses the distribution of these appropriations among the incentive programs for soil erosion control established by the division in accordance with the authorities extended in Iowa Code chapter 161A. The rule is also consistent with the restrictions imposed by language of the appropriations bills.

10.41(1) Voluntary program. Ninety percent of the appropriation is to be used for cost sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

Up to 30 percent of a district's original and supplemental allocation may be used for the establishment of practices listed in subrules 10.82(1) and 10.82(2).

The commissioners of a district may allocate voluntary program funds for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. Funds may be used for construction, reconstruction, installation, or repair of projects. The commissioners must determine that funds are necessary to restore permanent practices to prevent erosion in excess of applicable soil loss limits caused by the disaster emergency. Funds cannot be used unless a state of disaster emergency pursuant to a proclamation as provided in Iowa Code section 29C.6 has been declared. Funds can be used only if federal or state disaster emergency funds are not adequate. Funds do not have to be allocated on a cost-share basis. Districts are required to report to the division regarding restoration projects and funds allocated for projects.

10.41(2) Publicly owned lakes. For the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes, 5 percent of the amount appropriated is to be set aside for cost sharing at a rate not to exceed 75 percent.

10.41(3) Mandatory program. Five percent of the appropriation shall be set aside for cost sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 161A.47.

10.41(4) Special watershed projects. Iowa Code section 161A.7 permits cost sharing up to 60 percent of the cost of a project including five or more contiguous farm units which have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or subwatershed, where the owners jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plan.

10.41(5) Summer construction incentives. Funds are available for the planting of a conservation cover crop in place of cropland during the growing season to extend the construction season for the purpose of the installation of conservation practices. This practice shall be applied using the conservation crop rotation standard. Summer construction incentives are only available in conjunction with state-funded conservation practices.

10.41(6) and 10.41(7) Reserved.

10.41(8) Funds distributed to annual programs and provided to districts may be used in combination with department of natural resources funds in accordance with the following:

a. Proposals to allow an overall cost-share rate of greater than 50 percent to the district cooperator must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

b. The maximum cost-share rate realized by the district cooperator shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with such department of natural resources funds.

c. Funds utilized by districts in conjunction with such special projects shall come from the district's regular allocation.

d. Only those permanent practices listed in subrule 10.82(3) shall be eligible for financial incentive payments.

(1) Any practices to be installed on public land must meet the requirements of subrule 10.73(3) and be installed and paid for by the adjoining private landowner.

(2) Subrule 10.81(6) on upland treatment shall also apply.

e. In accordance with subrule 10.73(4), paragraph "a," no cost-sharing with other government agencies is allowed.

10.41(9) Funds distributed to annual programs and provided to districts may be used in combination with other public funds on permanent practices, in accordance with the following:

a. The maximum cost-share rate realized by the district cooperator shall not exceed 75 percent of the total eligible costs when state cost-share funds appropriated to the division and districts are utilized in combination with other public funds.

b. Funds utilized by districts in conjunction with such projects shall come from the district's regular allocation.

c. The recipient will be required to sign a maintenance agreement as stated in subrule 10.74(5).

This rule is intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs "b," "c," and "d"; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs "b," "c," and "d"; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs "b," "c," and "d."

[ARC 7722B, IAB 4/22/09, effective 4/1/09; ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.42 to 10.49 Reserved.

PART 5

27—10.50(161A) Allocations to soil and water conservation districts. This division identifies those program funds that are allocated to the districts and explains how the allocations are made.

27—10.51(161A) Voluntary program. The division will allocate program funds to the districts in steps identified as original allocations and supplemental allocations.

10.51(1) Original allocation. Sixty percent of the fiscal year funds distributed to this program will be allocated to the districts at the beginning of the fiscal year in accordance with a formula based on the state soil survey database for Iowa. The formula is $A = wzf$, where:

a. A = allocation to the district.

b. w = the percentage factor for the district, determined by $(x/y) (100)$, where:

(1) x = district acres, determined by totaling the district's land capability class acres from the state soil survey database for Iowa using the formula: $(\frac{1}{4})2e + 3e + 4e$.

(2) y = state acres, determined by totaling the state's land capability class acres from the state soil survey database for Iowa using the formula: $(\frac{1}{4})2E + 3E + 4E$.

c. z = sixty percent of fiscal year funds distributed to the voluntary program.

d. f = an adjustment factor of 0.980 applied to each district's allocation to adjust the original allocation to compensate for establishing a minimum of four-tenths of 1 percent of "z" to ensure that each district has a workable program.

e. The following table provides the value of "w" for each district:

Individual Soil and Water Conservation District

Percentage Allocation Factors

<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>
1.8 Adair	1.2 Davis	1.0 Jefferson	0.2 Pocahontas*
1.2 Adams	1.3 Decatur	1.1 Johnson	0.7 Polk
1.5 Allamakee	0.8 Delaware	1.2 Jones	1.4 E. Pottawattamie
1.1 Appanoose	0.6 Des Moines	1.4 Keokuk	1.2 W. Pottawattamie
1.4 Audubon	0.4 Dickinson	0.6 Kossuth	1.5 Poweshiek
1.4 Benton	1.9 Dubuque	1.0 Lee	1.6 Ringgold
0.5 Black Hawk	0.3 Emmet*	1.1 Linn	0.7 Sac
0.5 Boone	1.1 Fayette	0.5 Louisa	0.9 Scott
0.3 Bremer*	0.3 Floyd*	1.1 Lucas	1.7 Shelby
0.4 Buchanan	0.6 Franklin	0.8 Lyon	1.0 Sioux
0.4 Buena Vista	1.0 Fremont	1.2 Madison	0.6 Story
0.6 Butler	0.4 Greene	1.2 Mahaska	1.5 Tama
0.3 Calhoun*	0.5 Grundy	1.3 Marion	1.7 Taylor
1.2 Carroll	1.5 Guthrie	1.4 Marshall	1.1 Union
1.5 Cass	0.4 Hamilton	1.0 Mills	1.2 Van Buren
1.2 Cedar	0.3 Hancock*	0.3 Mitchell*	1.0 Wapello
0.5 Cerro Gordo	0.7 Hardin	1.2 Monona	1.1 Warren
1.0 Cherokee	1.6 Harrison	1.0 Monroe	1.1 Washington
0.4 Chickasaw	0.9 Henry	1.2 Montgomery	1.4 Wayne
1.2 Clarke	0.4 Howard	0.6 Muscatine	0.3 Webster*
0.3 Clay*	0.2 Humboldt*	0.4 O'Brien	0.5 Winnebago
2.0 Clayton	1.3 Ida	0.3 Osceola*	1.8 Winneshiek
1.2 Clinton	1.4 Iowa	1.5 Page	2.3 Woodbury
2.4 Crawford	1.6 Jackson	0.4 Palo Alto	0.3 Worth*
0.8 Dallas	1.7 Jasper	2.4 Plymouth	0.4 Wright

*The minimum value to be used in determining original allocations to districts shall be 0.4.

10.51(2) Supplemental allocation. The remaining balance of the fiscal year funds plus recalled funds from the mandatory program as distributed in subrule 10.41(3), and from the public lakes fund as distributed in subrule 10.41(2) that were not obligated, from the reserve fund established in subrule 10.57(1), and from districts as specified in subrule 10.51(3) will be provided to the districts in a supplemental allocation. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1. The allocation to any district will be the lesser amount of:

a. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or

b. Three times the original allocation to the district.

10.51(3) Recall of funds. Any funds allocated in the current fiscal year that the districts have not spent or obligated by June 30 may be recalled by the division.

10.51(4) Reallocation of recalled funds. Rescinded IAB 7/18/07, effective 6/27/07.

10.51(5) Eligibility for supplemental allocations. A district must have obligated 75 percent of current fiscal year funds to qualify for a supplemental allocation.

10.51(6) Recall and reallocation of funds by division director. When the unspent balance of funds allocated to a district exceeds that district's annual allocation by more than 150 percent for a period of 12 months or more, the division director may recall these unspent funds and reallocate them to a district or districts that can demonstrate a need.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.52(161A) Publicly owned lakes. The division of soil conservation maintains the funds that are distributed to the publicly owned lakes program. These funds may be used to provide cost sharing not to exceed 75 percent of the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes and reservoirs. The division will allocate these program funds to eligible districts in steps identified as original allocation, recall of unobligated funds, and reallocation.

10.52(1) Original allocation. Funding needs will be identified and funds will be set aside for watershed projects which have cost-share funds in addition to state and district cooperator funds (e.g., federal, county, or other). The remaining funds will be allocated equally between the other watersheds identified on the publicly owned lakes priority list.

10.52(2) Recall of unobligated funds. Funds that are allocated to districts under this program and are not obligated within three months shall be recalled by the division and reallocated.

10.52(3) Recall of obligated, but unspent funds. Rescinded IAB 7/18/07, effective 6/27/07.

10.52(4) Reallocation of recalled funds. The reallocation of recalled funds will be based on need and demonstrated ability to use the funds. The districts shall submit their requests identifying valid applications and cost estimates, if any, to the division. The division shall allocate funds for these requests on a first-come, first-served basis to other eligible watersheds above publicly owned lakes.

10.52(5) Eligible watersheds. For a landowner to qualify for 75 percent cost sharing under this program, the watershed in which the land is located must be on a list of priority watersheds above publicly owned lakes or reservoirs that is established by the department of natural resources.

10.52(6) Applications and agreements. Applications and agreements for 75 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except that the division will allocate funds to districts on an as-needed and first-come, first-served basis.

27—10.53 Reserved.

27—10.54(161A) Mandatory program. The division of soil conservation maintains the funds that are distributed to the mandatory cost-share program. These funds are used to provide cost sharing to landowners who are required to establish permanent soil and water conservation practices as the result of a district's administrative order or a court order.

10.54(1) Applications and agreements. Applications and maintenance/performance agreements for 50 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except as follows:

a. When the district commissioners have decided that cost-share assistance is to be approved for a landowner, a copy of the application and a copy of the cost estimate proposed by the technician will be sent to the division with a request for funding obligation. The division will review the application, allocate funds for the specific application to the district and notify the district of the approval. If funds are not available, the division will not allocate funds to the specific application, but will write a letter of explanation to the district. The district will notify the landowner of the status by issuing a supplementary administrative order.

b. Prior approval of the amendment must be obtained from the division should the commissioners desire to amend the application to change the amount of work or the cost.

10.54(2) Redistribution of program funds. Any unobligated program funds remaining at the end of the fiscal year will be redistributed to the voluntary cost-share program. These funds may be included with the supplemental allocation to districts or may be disbursed with the original allocation.

27—10.55 Reserved.

27—10.56(161A) Special watershed projects. District commissioners will satisfy the following conditions with regard to special watershed projects:

10.56(1) Prior to approving a project application for 60 percent cost-share, the district must obtain a project number from the division.

10.56(2) All participating landowners in a particular project will be required to show progress towards completion during the first year of the project. Progress will be evaluated by the district. Failure of all participating landowners to show progress during the first year will result in loss of authorization of the project and 60 percent cost-share funding eligibility.

10.56(3) Authorization for each project shall not exceed five years.

27—10.57(161A) Reserve fund.

10.57(1) *Purpose and use of the reserve fund.* The reserve fund will be set aside and used only to meet contingencies that occur in the districts or within the division. The reserve fund shall not exceed \$150,000.

10.57(2) *Replenishing the reserve fund.* On June 30 of each year, the division may recall any unspent allocations and replenish the fund in accordance with subrule 10.57(1). If needed, the reserve fund may also be replenished at any time with recalled funds to return the balance to \$150,000.

27—10.58 and 10.59 Reserved.

PART 6

27—10.60(161A) Funding rates. The purpose of this division is to establish the funding rates at which the state will fund or share the cost for approved soil conservation practices under the various incentive programs. In all cases, except for the mandatory program, the state's share will be computed using the percentages specified below and the estimated cost, the amended estimated cost, or the actual cost of implementing the practice, whichever is less. Payments under the mandatory program will be based on actual costs.

10.60(1) *Voluntary.*

a. The state will cost-share 50 percent of the cost certified by the certifying technician as being reasonable, proper, and incurred by the applicant in voluntarily installing approved, permanent soil conservation practices, except for tree planting. Eligible costs include machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice.

b. For tree and shrub establishment, the following criteria shall apply:

(1) Fifty percent of the actual cost, not to exceed \$450 per acre, including the following:

1. Establishing ground cover;
2. Trees and tree planting operations;
3. Weed and pest control; and
4. Mowing, disking, and spraying.

(2) Fifty percent of actual cost, not to exceed \$150 per acre, for wood plant control.

(3) Actual cost, not to exceed the lesser of \$14 per rod or \$45 per acre protected, for permanent fences that protect planted acres from grazing, excluding boundary and road fencing.

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contour farming; \$25 per acre for establishing a cover crop; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.

d. Funding for the restoration of permanent practices damaged or destroyed because of a disaster (see 10.41(1)) does not have to be allocated on a cost-share basis.

e. Where a livestock watering system is installed in a grade stabilization structure, cost share is limited to 50 percent of the estimated or eligible cost, whichever is less, not to exceed \$500 for the watering tank or holding facility, pipe and valves. Payment will be made only if the structure is fenced.

10.60(2) *Summer construction incentives.* In addition to cost share for the establishment of a permanent conservation practice, up to \$200 per acre is available to offset income lost from cropland acres taken out of production during the growing season. Payment will be made upon completion of the permanent conservation practice. To qualify:

a. The field being treated shall be in row cropland during the growing season in which the permanent conservation practice is being constructed.

b. The construction area shall be planted with a conservation cover for erosion control purposes on the construction site.

c. The construction of the permanent conservation practice shall take place between June 15 and October 15. Work must be started and completed between these dates and verified by the technician prior to payment of the incentive.

d. Only the land necessary for the construction is eligible for this incentive. The construction work area shall be determined by the technician.

e. The construction work area shall not be used to grow a row crop except for the required conservation cover crop.

10.60(3) *Special watershed projects.* Commissioners may enter into agreements providing for cost sharing up to 60 percent of the cost of a project that includes five or more contiguous farm units which collectively have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or a subwatershed. The owners must jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plans.

10.60(4) *Mandatory.* The rate of cost share for permanent soil and water conservation practices required as a result of an administrative order shall be 50 percent of the total cost to the landowner of installing the approved practice. The cost must be certified by the technician as being reasonable, proper and incurred by the landowner. The rate of cost share for temporary soil and water conservation practices is set by the state soil conservation committee.

10.60(5) *Watersheds above publicly owned lakes.* The state will cost-share 75 percent of the approved cost of permanent soil and water conservation practices on watersheds above certain publicly owned lakes. Watersheds above publicly owned lakes that qualify for 75 percent cost sharing must be identified on a priority list established by the department of natural resources.

10.60(6) *Conservation cover.* Cost share for certain lands is restricted by Iowa Code chapter 161A. Each tract of agricultural land which has not been plowed or used for growing row crops at any time within the prior 15 years shall be considered classified as agricultural land under conservation cover. "Agricultural land" has the meaning assigned that term by Iowa Code section 9H.1. If any tract of land so classified is thereafter plowed or used for growing row crops, the district commissioners shall not approve use of state cost-share funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-share funds which would be available for that land if it were not classified as agricultural land under conservation cover. This restriction shall apply even if an administrative order or court order has been issued requiring establishment of conservation practice.

[ARC 7722B, IAB 4/22/09, effective 4/1/09; ARC 8766B, IAB 5/19/10, effective 7/1/10; ARC 0224C, IAB 7/25/12, effective 8/29/12; ARC 0331C, IAB 9/19/12, effective 8/24/12; ARC 0477C, IAB 11/28/12, effective 1/2/13]

27—10.61 to 10.69 Reserved.

PART 7

27—10.70(161A) *Applications and agreements.* The purpose of this part is to identify and define procedures to be followed in applying for and entering agreements for receiving financial incentives for implementing approved temporary or permanent soil and water conservation practices.

27—10.71(161A) Applications submitted to soil and water conservation district. District cooperators desiring to be considered for financial incentives for implementing soil and water conservation practices shall complete necessary applications as specified by the division. If an applicant's land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

27—10.72(161A) Application signup.

10.72(1) Signatures by landowner and applicant. All applications and agreements shall be signed by the landowner except as noted in subrule 10.72(3) below. For an applicant to qualify for payment, both landowner and applicant must sign the application.

10.72(2) Land being bought under contract. All applications and agreements concerning land being purchased under contract shall be signed by both the contract seller and the contract buyer. If the operator is applying, the contract buyer, the contract seller, and the operator must sign.

10.72(3) Power of attorney. Applications and agreements may be signed by any person designated to represent the landowner or applicant, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a notarized full power of attorney statement to the district office. In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

27—10.73(161A) Eligibility for financial incentives.

10.73(1) District cooperator: Rescinded IAB 7/18/07, effective 6/27/07.

10.73(2) Administrative order: Rescinded IAB 7/18/07, effective 6/27/07.

10.73(3) Practices installed on adjoining public lands. Where soil and water conservation practices are installed on public lands, which benefit adjoining private lands, and costs of the installation are to be shared by the parties, state cost-share funds may be used to cost-share the landowner cost of the erosion control portion of the project.

10.73(4) Ineligible lands.

a. Iowa financial incentive funds shall not be used to reimburse other units of government for implementing soil and water conservation practices.

b. Privately owned land not used for agricultural production shall not qualify for financial incentives.

c. Tracts of land used for agricultural production which are less than ten acres in size and from which less than \$2500 of agricultural products are sold annually shall not qualify for financial incentives funds, unless approved by the commissioners as part of a group project or as a continuation of an adjacent system.

d. Tracts of land enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) that have more than 90 days left on the contract.

10.73(5) Need for soil and water conservation practices.

a. Financial incentives shall be available only for those soil and water conservation practices determined to be needed by the district to reduce excessive erosion or sedimentation and included in the designated practices identified in Part 8 of these rules. Such determination of need shall be made by a qualified technician.

b. At the discretion of the SWCD commissioners, practice construction may be allowed during the last 90 days of the CRP contract.

10.73(6) District priorities. Each application for financial incentives shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The district priority system shall give consideration to family-operated farms and public benefit derived. The priority system adopted by the district shall be made available for review at the district office. In establishing its priorities for funds made available beginning July 1, 1983, the district shall also give consideration to the district cooperator's effort to implement Iowa Soil 2000 program requirements.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.74(161A) Financial incentive application and processing procedures.**10.74(1) Application for financial incentives.**

a. Application submitted by landowner and applicant. Applicants for financial incentives for soil and water conservation practices shall complete and submit a request for assistance to the district office where the practice will be implemented.

b. Denial of application by district. Applications which are denied by the district shall be retained in the district until the end of the fiscal year. Application denial as used in this part refers to those applications which cannot be approved for reasons other than lack of available financial incentive funds.

c. Obligation of funds. Following approval of an application, the district may obligate funds for the project or, as appropriate, secure obligation of funds from the division for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the district until funding becomes available or until the end of the fiscal year. Upon obligation of funds, the district shall notify the applicant. The district will maintain a record of funds obligated for approved applications.

d. Application withdrawn by applicant. An application may be withdrawn by the applicant at any time prior to receipt of payment by notifying the district in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the district until the end of the fiscal year.

10.74(2) Project design by district.

a. District personnel responsible for design. The technician of the district shall design and lay out proposed soil and water conservation practices for which financial incentives funds have been obligated. The certifying technician of the district shall be responsible for determining compliance with applicable design standards and specifications.

b. Cost estimate adjustments.

(1) Application amendment. In the event that adjustment to the project cost estimate is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit an amendment request to the district for approval by the commissioners.

(2) Adjustment to obligated funds. The district may adjust the amount of incentive funds obligated for the project or may secure an adjusted obligation from the division for funds obligated by the division. In the event that additional funds are not available, the project may be redesigned, if possible, to a level commensurate with available funds, or the applicant can agree to assume full financial responsibility for the portion of the project cost in excess of the amount obligated.

10.74(3) Practice construction and certification.

a. Construction contracts. The landowner and applicant shall be responsible for securing any contractors needed and for all contractual or other agreements necessary to construct or perform the approved practices.

b. Certification of practice. The certifying technician or the technician of the district will determine that the completed practice is in compliance with applicable standards and specifications and that costs incurred are reasonable and proper. The certifying technician shall make such determination by completing and signing the certification of practice form. A copy of the certification will be retained in the district's case file.

10.74(4) Payment of financial incentives.

a. Submittal of bills and claim or certification of practice form to district. The applicant shall submit to the district a signed claim or certification of practice form and all bills relative to the project. Any materials and labor provided by the applicant must be itemized, and the itemization of any materials and labor provided by the applicant shall accompany the claim.

b. Approval for payment. The commissioners shall verify the technician's certification prior to approving the certification of practice form for submittal to the division for payment.

c. Claim submitted to the division by district. The signed claim or certification of practice form shall be submitted to the division. All original signed documents including itemized bills, claim agreements, maintenance/performance agreements and amendments shall be retained at the district office in the cooperator's case file.

d. Payment. Payment for the reimbursable cost of the project will be returned by the division to the district or directly to the landowner or applicant.

10.74(5) Maintenance/performance agreements.

a. Maintenance/performance agreement required. As a condition for receipt of any financial incentive funds for permanent soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for a minimum term as required by the division.

b. Maintenance/performance agreement form. An agreement to maintain practices for which financial incentives are being paid shall be made by completing and signing a maintenance/performance agreement form. Specific conditions of the maintenance/performance agreement are detailed on the form. Completion of the form and signature of the landowner are required prior to transfer of the incentive payment from the district to the recipient(s).

c. Filing of agreements.

(1) Establishment of a file for maintenance/performance agreements. The district shall establish and maintain a separate permanent file containing any documentation related to the maintenance/performance agreement form. The maintenance/performance agreements file shall be accessible for review by the public.

(2) Statement of compliance or noncompliance. A seller of agricultural land with respect to which a maintenance/performance agreement is in effect may request the district to inspect the practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance/performance agreement, where buyer means someone who has completed a contract for sale or deed, may also request that the district inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If a practice has been removed, altered, or modified, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

10.74(6) Case files. A case file shall be assembled and maintained for each application approved. The file will contain all documents and correspondence that require signatures from either the district, district cooperator or technician. The case file shall also include all bills and invoices related to an approved application.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.75 to 10.79 Reserved.

PART 8

27—10.80(161A) General conditions, eligible practices and specifications. The purpose of this part is to establish the general conditions and limitations concerning practice implementation, the state-approved soil and water conservation practices eligible for state financial incentives and the specifications for which funded practices must conform.

27—10.81(161A) General conditions. The following general conditions shall be met, where applicable, in addition to the specifications in rule 27—10.84(161A). To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

10.81(1) Practice need. The designated soil and water conservation practices shall not be funded unless the technician has inspected the site and has determined that such practice(s) is needed to reduce excessive erosion or sedimentation.

10.81(2) Eligible practices must control erosion and sediment. Only those soil and water conservation practices applied to agricultural crop and pasture land whose primary function is to control soil erosion and prevent sediment damage will be eligible for incentive program funds.

10.81(3) *Limitation of reimbursable costs of practices.* Overbuilding or other practice modifications which exceed the minimum requirements of the specification shall be permitted, if approved by the technician. Any additional costs resulting from such overbuilding or exceeding of the minimum specifications shall not be cost shared by the state. Examples of overbuilding or exceeding specifications include but are not limited to the following:

- a.* Where a district cooperator desires that water be stored for purposes other than grade stabilization to control erosion,
- b.* Where additional top width is added to an earthen fill to provide a field crossing or road,
- c.* Where additional flow capacity for lowland drainage laterals is added to an underground outlet constructed as a component of a terrace system, and

10.81(4) *Materials.* Projects funded with Iowa financial incentive funds will utilize only new materials or used materials that meet or exceed design standards and have a life expectancy of 20 years.

10.81(5) *Existing practices.*

a. Repair and maintenance. Repair and maintenance of existing practices are not eligible for funding.

b. Addition of underground outlets. The addition of underground outlets to existing waterways and terraces is not eligible for funding.

10.81(6) *Upland treatment.* Seventy-five percent of the upland area shall be adequately treated for erosion control before waterways or grade stabilization structures will be funded.

10.81(7) *Seeding.*

a. Seeding required. Following practice construction, seeding shall be performed as appropriate in accordance with seeding specifications referenced in rule 10.84(161A), except as waived below.

b. Seeding after specified seeding dates. When the construction of a practice is completed after the seeding date contained in the specifications, seeding may be delayed until the following year. If delayed, the applicant shall be responsible for protecting the practice with temporary vegetative cover or other means until the seeding can be completed. For seeding delayed until the next year, the district may approve payment for the completed practice but such payment shall exclude the seeding cost. The remaining payment for seeding may be made available the following year.

10.81(8) *Diversions.* Rescinded IAB 5/19/10, effective 7/1/10.

10.81(9) *Converting land to permanent vegetative cover.* Rescinded IAB 5/19/10, effective 7/1/10.

10.81(10) *Underground outlet.* Rescinded IAB 5/19/10, effective 7/1/10.
[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.82(161A) State designation of eligible practices. Only those soil and water conservation practices listed in this rule are eligible for the Iowa financial incentives program funds.

10.82(1) *Residue and management practices.* The division will make one-time payments for residue and tillage management practices.

- a.* No-till planting.
- b.* Ridge-till planting.
- c.* Strip-till planting.
- d.* Cover crops.

10.82(2) *Temporary practices.* The division will make one-time payments for temporary practices.

- a.* Critical area planting.
- b.* Contour farming.
- c.* Strip-cropping.
- d.* Field border.
- e.* Filter strips.
- f.* Pasture and hay planting. Pasture and hay planting will be eligible for funding only when land that has been planted to row crop for three out of the last five years is being converted to permanent vegetative cover.

10.82(3) *Permanent practices.*

- a.* Reserved.

- b.* Diversion. Diversions are eligible for funding only when used to prevent downstream erosion.
 - c.* Windbreak and shelterbelt establishment. A strip or belt of trees or shrubs established within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.
 - d.* Grade stabilization structure.
 - e.* Reserved.
 - f.* Grassed waterway.
 - g.* Reserved.
 - h.* Terrace.
 - i.* Underground outlet. Underground outlets are eligible for Iowa financial incentive funding only when used as a component of eligible permanent practices contained in subrule 10.82(3).
 - j.* Water and sediment control basin.
 - k.* Reserved.
 - l.* Conservation cover.
 - m.* Tree and shrub planting. The minimum eligible area is three acres.
- [ARC 8766B, IAB 5/19/10, effective 7/1/10; ARC 0331C, IAB 9/19/12, effective 8/24/12; ARC 0477C, IAB 11/28/12, effective 1/2/13]

27—10.83(161A) Designation of eligible practices. District commissioners may designate which soil and water conservation practices will be eligible for Iowa financial incentive payments in their district. The selected practices must be from the state-approved practices contained in rule 27—10.82(161A). [ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.84(161A) Practice standards and specifications. Practices shall meet Natural Resources Conservation Service conservation standards and specifications. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA. The tree planting standard may be accessed through the department of natural resources' forestry technical guide found at <http://www.iowadnr.com/forestry/pdf/techguide.pdf>. Standards and specifications are available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

27—10.85 to 10.89 Reserved.

PART 9

27—10.90 Reserved.

27—10.91(161A) Annual report. The district will submit an annual report to the division. The report will reflect accomplishments for the fiscal year ending June 30. The report shall be submitted to the division on or before July 7 each year.

27—10.92(161A) Control of lands. Rescinded IAB 5/19/10, effective 7/1/10.

27—10.93 and 10.94 Reserved.

27—10.95(161A) Forms. Standard forms, applications, and agreements used by the applicant and recipient of financial incentives for soil erosion control as outlined in these rules are provided by the division. Copies of all forms, applications, and agreements are available from the soil conservation district office located in each county. Copies are also available from the division at the following address: Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

27—10.96 to 10.99 Reserved.

Rules in Chapter 10 are intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs “b,” “c,” and “d”; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs “b,” “c,” and “d”; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs “b,” “c,” and “d”; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs “b,” “c,” and “d.”

- [Filed 9/17/76, Notice 7/12/76—published 10/6/76, effective 11/10/76¹]
- [Filed emergency 8/17/79—published 9/5/79, effective 8/17/79¹]
- [Filed 8/1/80, Notice 6/25/80—published 8/20/80, effective 9/25/80¹]
- [Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/29/81]
- [Filed emergency 4/10/81 after Notices 2/18/81—published 4/29/81, effective 4/24/81]
- [Filed emergency 8/14/81 after Notice 6/24/81—published 9/2/81, effective 8/14/81]
- [Filed 10/9/81, Notice 7/22/81—published 10/28/81, effective 12/4/81]
- [Filed 11/6/81, Notice 9/2/81—published 11/25/81, effective 1/1/82]
- [Filed emergency 8/13/82 after Notice 6/9/82—published 9/1/82, effective 8/13/82]
- [Filed emergency after Notice 7/12/83, Notice 5/25/83—published 8/3/83, effective 7/12/83]
- [Filed 8/10/83, Notice 6/22/83—published 8/31/83, effective 10/6/83]
- [Filed 4/6/84, Notice 12/21/83—published 4/25/84, effective 6/1/84]
- [Filed emergency 7/13/84 after Notice 5/23/84—published 8/1/84, effective 7/13/84]
- [Filed without notice 4/5/85—published 4/24/85, effective 5/29/85]
- [Filed emergency 6/28/85 after Notice 5/22/85—published 7/17/85, effective 6/28/85]
- [Filed 7/12/85, Notice 5/22/85—published 7/31/85, effective 9/4/85]
- [Filed 9/5/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
- [Filed emergency 7/10/86 after Notice 6/4/86—published 7/30/86, effective 7/10/86]
- [Filed 8/22/86, Notice 7/2/86—published 9/10/86, effective 10/15/86]
- [Filed emergency 6/11/87—published 7/1/87, effective 7/1/87]
- [Filed 9/4/87, Notice 7/1/87—published 9/23/87, effective 10/28/87]
- [Filed emergency 7/7/88 after Notice 6/1/88—published 7/27/88, effective 7/7/88]
- [Filed 12/7/88, Notice 8/10/88—published 12/28/88, effective 2/1/89]
- [Filed 12/7/88, Notice 9/7/88—published 12/28/88, effective 2/1/89]
- [Filed emergency 7/19/89 after Notice 6/14/89—published 8/9/89, effective 7/19/89]
- [Filed emergency 7/6/90 after Notice 5/30/90—published 7/25/90, effective 7/6/90]
- [Filed 2/1/91, Notice 12/26/90—published 2/20/91, effective 4/1/91]
- [Filed emergency 8/15/91 after Notice 7/10/91—published 9/4/91, effective 8/15/91]
- [Filed emergency 9/1/92 after Notice 7/22/92—published 9/30/92, effective 9/1/92]
- [Filed 3/26/93, Notice 12/23/92—published 4/14/93, effective 5/19/93]
- [Filed emergency 6/17/93—published 7/7/93, effective 6/17/93]
- [Filed emergency 7/13/94 after Notice 6/8/94—published 8/3/94, effective 7/13/94]
- [Filed emergency 7/26/95 after Notice 6/21/95—published 8/16/95, effective 7/26/95]
- [Filed emergency 7/24/96 after Notice 6/19/96—published 8/14/96, effective 7/24/96]
- [Filed emergency 7/23/97 after Notice 6/18/97—published 8/13/97, effective 7/23/97]
- [Filed 12/12/97, Notice 10/8/97—published 12/31/97, effective 2/4/98]
- [Filed 1/21/00, Notice 12/15/99—published 2/9/00, effective 3/29/00]
- [Filed 5/8/02, Notice 4/3/02—published 5/29/02, effective 7/3/02]
- [Filed emergency 6/27/07 after Notice 5/23/07—published 7/18/07, effective 6/27/07]
- [Filed Emergency After Notice ARC 7722B (Notice ARC 7594B, IAB 2/25/09), IAB 4/22/09, effective 4/1/09]
- [Filed ARC 8766B (Notice ARC 8618B, IAB 3/24/10), IAB 5/19/10, effective 7/1/10]
- [Filed ARC 0224C (Notice ARC 0127C, IAB 5/16/12), IAB 7/25/12, effective 8/29/12]
- [Filed Emergency ARC 0331C, IAB 9/19/12, effective 8/24/12]

[Filed ARC 0477C (Notice ARC 0303C, IAB 8/22/12), IAB 11/28/12, effective 1/2/13]

¹ History transferred from 780—Ch 7

CHAPTER 1
ADMINISTRATIVE ORGANIZATION AND PROCEDURES

[Prior to 7/1/87, see Blind, Commission for[160] Ch 1; rule 3.6; Ch 9]

[Prior to 9/21/88, see Blind, Division for the[423] Ch 1; Ch 2; Ch 12]

111—1.1(216B) Authority. There is established a department for the blind which shall carry out policies and programs as determined by the commission for the blind.

111—1.2(216B) History and function. To respond to the unique needs of the blind of Iowa, the general assembly established the Iowa commission for the blind on April 1, 1925. Although specific programs for the blind have varied in recent years, the basic mission to promote positive attitudes toward blindness has remained constant. As a result of state government reorganization in 1986, the commission for the blind became a division of the department of human rights. However, the 72nd General Assembly restored the commission's separate status by establishing a department for the blind in 1988.

111—1.3(216B) Location and information. The central office of the department is located at 524 Fourth Street, Des Moines, Iowa 50309-2364, telephone (515)281-1333, (incoming WATS number (800)362-2587).

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—1.4(216B) Definitions. The following definitions apply to the rules of the department for the blind:

"Blind" or *"blindness,"* except as applicable to the business enterprises program, refers to the condition of an individual who meets one or more of the following criteria: (1) vision not more than 20/200 central visual acuity in the better eye, with ordinary corrective lenses, or a field defect in which the peripheral field has contracted to an extent that the widest diameter of visual field subtends to an angular distance of not greater than 20 degrees; (2) a combination of loss of visual acuity and loss of visual field which imposes an employment handicap which is substantially that of a blind person; (3) medical prognosis indicating a progressive loss of sight which will terminate in the condition described in criteria one; or (4) a visual impairment which by agreement of the division of vocational rehabilitation services of the Iowa department of education and the department is such that the individual can be best served by the department.

"Commission" means the three-member statutory commission for the blind.

"Dangerous weapon" means any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the person possessing the instrument or device intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon as defined in Iowa Code section 724.1, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, or knife having a blade exceeding five inches in length.

"Department" means the department for the blind. The department is the state licensing agency for vending facilities under the Randolph-Sheppard Act.

"Director" means the director of the department for the blind.

"Division" means one of the principal subunits of the department for the blind.

"Extreme medical risk" means a risk of substantially increasing functional impairment or risk of death if medical services are not expeditiously provided.

"Facilities" means the premises at 524 Fourth Street, Des Moines, Iowa, and any other space occupied by the department for the blind.

"Program administrator" means the chief of each of the divisions of the department for the blind.

"Public" means a person who is not employed by the state of Iowa.

"Staff" means individuals employed by the department for the blind.

“State” means the state of Iowa.
[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—1.5(216B) Commission. The duties and powers of the commission are as delineated in Iowa Code sections 216B.3 and 216D.3.

1.5(1) Meetings. The commission shall meet as often as necessary to conduct business expeditiously and efficiently. To the maximum extent practicable, meetings will be held outside normal working hours to encourage attendance.

1.5(2) Chairperson. At the first regularly scheduled meeting of each calendar year, the commission shall elect a chairperson.

1.5(3) Notice. Notice of meetings, including the proposed agenda, will be posted at all offices of the department. Persons wishing to receive notice of meetings may file a request with the office of the director.

111—1.6(216B) Director. As the chief administrative officer for the department, the director shall be responsible for implementation of commission policies and for administration of programs and services in compliance with applicable federal and state laws and regulations.

111—1.7(216B) Divisions. The director has established the following divisions of the department:

1. Adult orientation and adjustment center
2. Business enterprises program
3. Field operations
4. Library for the blind and physically handicapped

111—1.8(216B) Private association activity of staff. Staff shall not, on a significant regular basis, perform work for private associations or organizations (including organizations of or for the blind) during working hours or with use of department facilities unless arrangements have been formalized through a 28E agreement approved by the commission. Significant organizational activities prohibited in the absence of a formal 28E agreement include, but are not limited to: electioneering for organizational office, processing memberships, collecting dues, arranging for meetings and conventions, fund-raising, canvassing, leafleting, picketing, preparing organizational mailings, and other activities of a purely organizational nature which are unrelated to official staff duties.

However, the department encourages staff to maintain frequent contact with blind individuals and organizations of the blind as well as civic, social, fraternal, and professional groups interested in working with blind individuals.

This rule is not intended to discourage telephone conversations and correspondence with individuals or attendance (with supervisory approval) at meetings of blind or related associations or organizations.

111—1.9(216B) Authorization for use of facilities. Department facilities are available for the use of groups of blind individuals or other groups or organizations interested in working with blind individuals when the activity does not interfere with the conduct of department business. Authorization for the use of facilities must be obtained from the director or designee.

111—1.10(216B) Joint activities. When use of the department facility or the activity of staff is expected to be continual or significant, the department may enter into an agreement with any appropriate public or private entity pursuant to Iowa Code chapter 28E. The agreement must specify the purpose of the arrangement; the specific use of the facility or the specific activity of staff which is involved, as appropriate; remuneration (if appropriate); and any other necessary arrangements.

111—1.11(216B) Administration of the gifts and bequests fund. Pursuant to Iowa Code section 216B.3(8), there is established a gifts and bequests fund.

1.11(1) Gifts and bequests fund. The gifts and bequests fund is established primarily to provide direct financial assistance in the form of grants or loans to blind Iowans which will materially assist

in independent living or vocational success or to provide department services or support services for which other funds are not available. Grants or loans may not be given for the purpose of continuing support.

a. Use for department operations. Use of gifts and bequests for routine, ongoing department operations must be approved by the commission.

b. Eligibility. Recipients of grants or loans must be blind individuals, as defined in rule 1.4(216B), who are residents of the state and whom the director or commission has determined to demonstrate a need for assistance.

c. Application process. Applications must be submitted to the director or designee for review. Applications not exceeding \$2,500 may be approved by the director or designee. Applications exceeding \$2,500 shall not be subject to approval or disapproval by the director or designee but shall be submitted to the commission for approval.

1.11(2) Vending facilities fund. The vending facilities fund is established to provide low interest loans to active licensed vendors. The director may approve loans in any amount from these moneys for use as start-up capital or for the purchase of inventory. Upon approval, the director will establish a repayment schedule.

1.11(3) Availability of records. Names of applicants or recipients of grants or loans from these funds are confidential records under 111—subrule 13.13(2). Disclosure may be made only for routine use as delineated in rule 111—13.10(17A,22).

1.11(4) Deposit of funds. Rescinded IAB 6/26/02, effective 7/31/02.

1.11(5) Record keeping. Rescinded IAB 6/26/02, effective 7/31/02.

111—1.12(216B) Procurement.

1.12(1) The procurement of goods and services for clients of the department shall be in accordance with the requirements of informed choice as defined in 34 CFR 361.52 (as published in the Federal Register on January 22, 2001).

1.12(2) Procurement of goods. Except as provided in 1.12(1) above, the procurement of goods shall be conducted in accordance with procurement standards and procedures established at 34 CFR 80.36 (effective July 6, 2004) for state government grantees.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—1.13(216B) Department facility operations.

1.13(1) Dangerous weapons. No member of the public shall carry a dangerous weapon in department facilities. This provision applies to any member of the public whether or not the individual possesses a valid Iowa permit to carry weapons. This provision does not apply to:

a. A peace officer as defined in Iowa Code section 801.4 or a member of the armed forces of the United States or of the national guard, when the person's duties or lawful activities require or permit possession of a dangerous weapon.

b. A person possessing a valid Iowa professional permit to carry a weapon whose duties require that person to carry a dangerous weapon.

c. A person who possesses a dangerous weapon for any purpose authorized by a state agency to further the statutory or regulatory responsibilities of that agency. An authorization issued pursuant to this paragraph shall not become effective until it has been issued in writing to the person or persons to whom it applies and until copies of the authorization have been received by the director and by the commissioner of public safety.

d. Members of recognized military veterans organizations performing honor guard service as provided in Iowa Code section 35A.12.

Violation of this subrule is a simple misdemeanor, pursuant to Iowa Code section 8A.322, and may result in the denial of access to a state building, filing of criminal charges or expulsion from the grounds of the department's facilities, or any combination thereof, of any individual who knowingly violates the subrule. In addition, any weapon found in the possession of a member of the public in violation of this subrule may be confiscated. Charges may be filed under any other criminal statute if appropriate.

Officers employed by or under the supervision of the department of public safety shall have the authority to enforce this subrule. Peace officers employed by other agencies shall have the authority to enforce this subrule at the request of the commissioner of public safety or in response to a request for assistance from an officer employed by the department of public safety or at the request of the director or the director's designee.

1.13(2) *Building access and security.* The department shall take reasonable and appropriate measures to ensure the safety of persons and property in department facilities. These measures may include, but are not limited to, the following:

a. Requiring any member of the public entering department facilities to (1) provide identification upon request; (2) allow the member of the public to be scanned with metal detecting equipment; and (3) allow any parcel, package, luggage, purse, or briefcase that the person is bringing into department facilities to be examined with X-ray equipment or to have the contents thereof examined, or both.

b. Requiring any member of the public who is inside department facilities outside normal business hours, other than when facilities are open to the public during a scheduled event, to provide identification and to state the nature of the person's business in the facility. A member of the public who is in department facilities outside normal business hours, other than during a scheduled event, and who does not have authorization to be on the premises may be required to exit the building and be escorted from the building.

c. Limiting public access to department facilities to selected entrances. Access to each building through at least one entrance accessible to persons with disabilities shall be maintained.

d. Limiting hours during which public access to department facilities is allowed.

e. Confiscating any container including, but not limited to, packages, bags, briefcases, or boxes that are left in public areas when department facilities are not open to the public. Any confiscated container may be searched or destroyed, or both, or may be returned to the owner. Any container that is left unattended in a public area during hours in which department facilities are open to the public may be examined.

Violation of this subrule is a simple misdemeanor, pursuant to Iowa Code section 8A.322, and may result in the denial of access to a state building, filing of criminal charges or expulsion from department facilities, or any combination thereof, of the individual who knowingly violates the subrule. Charges may be filed under any other criminal statute if appropriate. Officers employed by or under the supervision of the department of public safety shall have the authority to enforce this subrule. Peace officers employed by other agencies shall also have the authority to enforce this subrule.

1.13(3) *Access barriers.* The director may cause the temporary or permanent placement of barricades, ropes, signs, or other barriers to limit access to certain parts of department facilities. Unauthorized persons beyond the barriers may be removed with the assistance of law enforcement officers or charged with a criminal offense if appropriate, or both.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

These rules are intended to implement Iowa Code chapter 216B.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

[Filed 8/28/81, Notice 6/10/81—published 9/16/81, effective 10/21/81]

[Filed 12/15/82, Notice 9/15/82—published 1/5/83, effective 2/10/83]

[Filed 8/24/84, Notice 3/14/84—published 9/12/84, effective 10/18/84]

[Filed 6/9/87, Notice 3/25/87—published 7/1/87, effective 8/5/87]

[Filed 4/19/88, Notice 2/10/88—published 5/4/88, effective 6/8/88]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed emergency 9/2/88—published 9/21/88, effective 9/2/88]

[Filed 2/1/90, Notice 11/15/89—published 2/21/90, effective 3/28/90]

[Filed emergency 8/2/90—published 8/22/90, effective 8/2/90]

[Filed 1/18/91, Notice 11/28/90—published 2/6/91, effective 3/13/91]

[Filed 6/27/97, Notice 5/7/97—published 7/16/97, effective 8/20/97]

[Filed 3/24/99, Notice 2/24/99—published 4/21/99, effective 5/26/99]

[Filed 6/5/02, Notice 5/1/02—published 6/26/02, effective 7/31/02]

[Filed 2/22/06, Notice 1/18/06—published 3/15/06, effective 4/19/06]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 2 PERSONNEL

111—2.1(216B) Qualifications of personnel.

2.1(1) *State-licensed professions.* Persons employed in positions for which licensure is required by the state are required to hold the appropriate license at the time of hire and maintain it throughout their term of employment even when the Iowa Code exempts individuals employed by a state agency from the licensure requirement.

2.1(2) *Service specialist for the blind 2 and senior service specialist for the blind 1 (vocational rehabilitation counselor).* Certification shall be required of all vocational rehabilitation counselors employed by the department.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university and one year of work experience shall be granted provisional certification. Exceptions regarding education and experience can only be made by the commission for the blind upon the recommendation of the director. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification as a vocational rehabilitation counselor by demonstrating competency in the following areas.

(1) Knowledge, understanding, and implementation of the department's positive philosophy of blindness.

(2) Knowledge of the department's programs.

(3) Skills in career planning and development.

(4) Knowledge of placement techniques and practices.

(5) Knowledge of occupational information, job site evaluation, and job analysis.

(6) Knowledge and development of alternative techniques of blindness.

(7) Knowledge of rehabilitation technology services.

(8) Knowledge of disability and related issues.

(9) Advocacy.

(10) Case management.

(11) Adjustment to blindness counseling.

(12) Assessment of consumer needs.

(13) Public education and outreach.

(14) Teamwork and problem solving.

c. An individual holding at least a bachelor's degree from an accredited college or university, who has been employed by the department as a service specialist for the blind 2 or senior service specialist for the blind 1 (vocational rehabilitation counselor) for a minimum of six months on the date this rule is finalized, shall be considered to be a fully certified vocational rehabilitation counselor, as long as the individual maintains unbroken employment with the department in that classification.

2.1(3) *Senior service specialist for the blind 1 (vocational rehabilitation teacher).* Certification shall be required of all vocational rehabilitation teachers employed by the department.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university and one year of work experience shall be granted provisional certification. Exceptions regarding education and experience can only be made by the commission for the blind upon recommendation of the director. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification as a vocational rehabilitation teacher by demonstrating competency in the following areas.

(1) Knowledge, understanding, and implementation of the department's positive philosophy of blindness.

(2) Knowledge of the department's programs.

(3) Assessment of consumer needs.

(4) Teaching skills and practices.

- (5) Knowledge and development of alternative techniques of blindness.
- (6) Knowledge of rehabilitation technology services.
- (7) Knowledge and development of community resources.
- (8) Knowledge of disability and related issues.
- (9) Advocacy.
- (10) Case management.
- (11) Adjustment to blindness counseling.
- (12) Public education and outreach.
- (13) Teamwork and problem solving.

c. An individual holding at least a bachelor's degree from an accredited college or university, who has been employed by the department as a service specialist for the blind 2 (vocational rehabilitation teacher) for a minimum of six months on the date this rule is finalized, shall be considered to be a fully certified vocational rehabilitation teacher, as long as the individual maintains unbroken employment with the department in that classification.

2.1(4) Senior service specialist for the blind 1 (orientation center teacher). Certification shall be required of all orientation center teachers employed by the department.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university and one year of paid employment in a program of rehabilitation, education of the blind, elementary or secondary education or related fields shall be granted provisional certification. Exceptions regarding education and experience can only be made by the commission for the blind upon recommendation of the director. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification as an orientation center teacher by demonstrating competency in the following areas.

- (1) Knowledge, understanding, and implementation of the department's positive philosophy of blindness.
- (2) Knowledge of the department's programs.
- (3) Knowledge and development of alternative techniques of blindness.
- (4) Technical knowledge of subject area(s) taught.
- (5) Teaching skills and practices.
- (6) Adjustment to blindness counseling.
- (7) Understanding of career planning and development.
- (8) Knowledge of rehabilitation technology services.
- (9) Knowledge of disability and related issues.
- (10) Advocacy.
- (11) Teamwork and problem-solving.
- (12) Assessment of consumer needs.
- (13) Public education and outreach.

c. An individual holding at least a bachelor's degree from an accredited college or university, who has been employed by the department as a senior service specialist for the blind 1 (orientation center teacher) for a minimum of six months on the date this rule is finalized, shall be considered to be a fully certified orientation center teacher, as long as the individual maintains unbroken employment with the department in that classification.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

These rules are intended to implement Iowa Code chapter 216B.

[Filed 11/7/97, Notice 8/27/97—published 12/3/97, effective 1/7/98]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 3
DEPARTMENT PROCEDURE FOR RULE MAKING
[Prior to 9/21/88, see Blind, Division for the[423] Ch 3]

111—3.1(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the commission are subject to the provisions of Iowa Code chapter 17A, the Iowa administrative procedure Act, and the provisions of this chapter.

111—3.2(17A) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the department may, before publication of a Notice of Intended Action as provided in Iowa Code section 17A.4(1)“a,” solicit comments from the public on a subject matter of possible rule making by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when and how persons may comment.

111—3.3(17A) Public rule-making docket.

3.3(1) Docket maintained. The department shall maintain a current public rule-making docket.

3.3(2) Anticipated rule making. The rule-making docket shall list each anticipated rule-making proceeding. A rule-making proceeding is deemed “anticipated” from the time a draft of proposed rules is distributed for internal discussion within the department or from the time of announcement at a meeting of the commission. For each anticipated rule-making proceeding, the docket shall contain a listing of the precise subject matter which may be submitted for consideration by the commission for subsequent proposal under the provisions of Iowa Code section 17A.4(1)“a,” the name and address of department personnel with whom persons may communicate with respect to the matter, and an indication of the present status within the department of that possible rule. The department may also include in the docket other subjects upon which public comment is desired.

3.3(3) Pending rule-making proceedings. The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, pursuant to Iowa Code section 17A.4(1)“a,” to the time it is terminated, by publication of a Notice of Termination in the Iowa Administrative Bulletin or the rule becoming effective. For each rule-making proceeding, the docket shall indicate:

- a. The subject matter of the proposed rule.
- b. A citation to all published notices relating to the proceeding.
- c. Where written submissions on the proposed rule may be inspected.
- d. The time during which written submissions may be made.
- e. The names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made.
- f. Whether a written request for the issuance of a regulatory analysis, or a concise statement of reasons has been filed, whether such an analysis or statement or a fiscal impact statement has been issued, and where any such written request, analysis, or statement may be inspected.
- g. The current status of the proposed rule and any department determinations with respect thereto.
- h. Any known timetable for department decisions or other action in the proceeding.
- i. The date of the rule’s adoption.
- j. The date of the rule’s filing, indexing and publication.
- k. The date on which the rule will become effective.
- l. Where the rule-making record may be inspected.

111—3.4(17A) Notice of proposed rule making.

3.4(1) Contents.

a. At least 35 days before the adoption of a rule, the department shall cause a Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

- (1) A brief explanation of the purpose of the proposed rule.

- (2) The specific legal authority for the proposed rule.
- (3) Except to the extent impracticable, the text of the proposed rule.
- (4) Where, when and how persons may present their views on the proposed rule.
- (5) Where, when and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

b. Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the department shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the department for the resolution of each of those issues.

c. To facilitate transcription into alternative media, the complete text of the proposed rule shall be published in the Notice of Intended Action whenever possible.

3.4(2) *Incorporation by reference.* A proposed rule may incorporate other materials by reference only if it complies with all of the requirements applicable to incorporation by reference of other materials in an adopted rule that are contained in subrule 3.12(2).

3.4(3) *Copies of notices.* Persons desiring to receive copies of future Notices of Intended Action by subscription must file with the department a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the department shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for either mailing or electronic transmittal with the department for Notices of Intended Action. The written request shall be accompanied by payment of a subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of one year.

3.4(4) *Provision in alternative media.* Mailed copies of Notices of Intended Action shall be provided in standard print format, unless an individual requests provision of the notices in alternative media. Notices in the alternative media shall be provided in a timely manner.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—3.5(17A) Public participation.

3.5(1) *Written comments.* For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Administrative Rules Coordinator, Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309 or the person designated in the Notice of Intended Action.

3.5(2) *Oral proceedings.* The department may, at any time, schedule an oral proceeding on a proposed rule. The department shall schedule an oral proceeding on a proposed rule if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the department by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or at least 25 persons. The request must also contain the following information:

1. A request by one or more individual persons must be signed by each of them and include the address and telephone number of each of them.
2. A request by an association must be signed by an officer or designee of the association and must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.
3. A request by an agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity and must contain the address and telephone number of the person signing that request.

The department may waive technical compliance with these procedures.

3.5(3) Conduct of oral proceedings.

a. Applicability. This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1)“b” as amended by 1998 Iowa Acts, chapter 1202, section 8.

b. Scheduling and notice. An oral proceeding on a proposed rule may be held in one or more locations and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. The notice shall also identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. Presiding officer. The director, the department’s administrative rules coordinator or a division administrator of the department, as designated by the director, shall preside at the oral proceeding on the proposed rule. If the director does not preside, the presiding officer shall prepare a memorandum for consideration by the director summarizing the contents of the presentations made at the oral proceeding unless the director determines that a memorandum is unnecessary because the director will personally listen to or read the entire transcript of the oral proceeding.

d. Conduct of proceeding. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the department at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by stenographic or electronic means.

(1) At the beginning of the oral proceeding, the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the department decision to propose the rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(2) Persons making oral presentations are encouraged to avoid restating matters which have already been submitted in writing.

(3) To facilitate the exchange of information, the presiding officer may, where time permits, open the floor to questions or general discussion.

(4) The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of the meeting.

(5) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the department.

(6) The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

(7) Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(8) The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

3.5(4) Additional information. In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the department may obtain information concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

3.5(5) Accessibility. The department shall schedule oral presentations in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Administrative Office, Department for the Blind, (515)281-1333, Iowa WATS (800)362-2587, or TTY (515)281-1355, in advance to arrange access or other needed services.

111—3.6(17A) Regulatory analysis.

3.6(1) *Definition of small business.* A “small business” is defined in 1998 Iowa Acts, chapter 1202, section 10(7).

3.6(2) *Mailing list.* Small businesses or organizations of small businesses may be registered on the department’s small business impact list by making a written application to the department administrative rules coordinator. The application for registration shall state:

- a. The name of the small business or organization of small businesses.
- b. Its address.
- c. The name of a person authorized to transact business for the applicant.
- d. A description of the applicant’s business or organization. An organization representing 25 or more persons who qualify as a small business shall indicate that fact.
- e. Whether the registrant desires copies of Notices of Intended Action at cost, or desires advance notice of the subject of all or some specific category of proposed rule making affecting small business.

The department may at any time request additional information from the applicant to determine whether the applicant is qualified as a small business or as an organization of 25 or more small businesses. The department may periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization of small businesses wishes to remain on the registration list. The name of a small business or organization of small businesses will be removed from the list if a negative response is received, or if no response is received within 30 days after the letter is sent.

3.6(3) *Time of mailing.* Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the department shall mail to all registered small businesses or organizations of small businesses, in accordance with their request, either a copy of the Notice of Intended Action or notice of the subject of that proposed rule making. In the case of a rule that may have an impact on small business, adopted in reliance upon Iowa Code section 17A.4(2), the department shall mail notice of the adopted rule to registered businesses or organizations prior to the time the adopted rule is published in the Iowa Administrative Bulletin.

3.6(4) *Qualified requesters for regulatory analysis—economic impact.* The department shall issue a regulatory analysis of a proposed rule that conforms to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2a), after a proper request from:

- a. The administrative rules coordinator; or
- b. The administrative rules review committee.

3.6(5) *Qualified requesters for regulatory analysis—business impact.* The department shall issue a regulatory analysis of a proposed rule that conforms to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2b), after a proper request from:

- a. The administrative rules review committee;
- b. The administrative rules coordinator;
- c. At least 25 or more persons who sign the request provided that each represents a different small business; or
- d. An organization representing at least 25 small businesses. That organization shall list the name, address and telephone number of not less than 25 small businesses it represents.

3.6(6) *Time period for analysis.* Upon receipt of a timely request for a regulatory analysis, the department shall adhere to the time lines described in 1998 Iowa Acts, chapter 1202, section 10(4).

3.6(7) *Contents of request.* A request for a regulatory analysis is made when it is mailed or delivered to the department. The request shall be in writing and satisfy the requirements of 1998 Iowa Acts, chapter 1202, section 10(1).

3.6(8) *Contents of concise summary.* The contents of the concise summary shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(4) and (5).

3.6(9) *Publication of a concise summary.* The department shall make available, to the maximum extent feasible, copies of the published summary in conformance with 1998 Iowa Acts, chapter 1202, section 10(5).

3.6(10) *Regulatory analysis contents—administrative rules review committee or administrative rules coordinator.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee or the administrative rules coordinator, the regulatory analysis shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2a), unless a written request expressly waives one or more of the items listed in the section.

3.6(11) *Regulatory analysis contents—substantial impact on small business.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who each qualify as a small business or by an organization representing at least 25 small businesses, the regulatory analysis shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2b).

111—3.7(17A,25B) Fiscal impact statement.

3.7(1) A proposed rule that mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services must be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact statement must satisfy the requirements of Iowa Code section 25B.6.

3.7(2) If the department determines at the time it adopts a rule that the fiscal impact statement upon which the rule is based contains errors, the department shall, at the same time, issue a corrected fiscal impact statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

111—3.8(17A) Time and manner of rule adoption.

3.8(1) *Time of adoption.* The commission shall not adopt a rule until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action or the end of oral proceedings thereon, the commission shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the Iowa Administrative Bulletin.

3.8(2) *Consideration of public comment.* Before the adoption of a rule, the commission shall consider fully all of the written submissions and oral submissions received in that rule-making proceeding, any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in that rule-making proceeding.

3.8(3) *Reliance on department expertise.* Except as otherwise provided by law, the commission may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

111—3.9(17A) Variance between adopted rule and published notice of proposed rule adoption.

3.9(1) The commission shall not adopt a rule that differs from the rule proposed in the Notice of Intended Action on which the rule is based unless:

- a.* The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that notice; and
- b.* The differences are a logical outgrowth of the contents of the Notice of Intended Action and the comments submitted in response thereto; and
- c.* The Notice of Intended Action provided fair warning that the outcome of the rule-making proceeding could be the rule in question.

3.9(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of the rule-making proceeding could be the rule in question, the department shall consider the following factors:

- a.* The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests.
- b.* The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action.
- c.* The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

3.9(3) The department shall commence a rule-making proceeding within 60 days of its receipt of a petition for rule making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based, unless the department finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make the rule-making proceeding wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to the petitioner, the administrative rules coordinator and the administrative rules review committee within three days of its issuance.

3.9(4) Concurrent rule-making proceedings. Nothing in this rule disturbs the discretion of the department to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

111—3.10(17A) Exemptions from public rule-making procedures.

3.10(1) *Omission of notice and comment.* To the extent the commission, for good cause, finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, the commission may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The commission shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

3.10(2) *Categories exempt.* The following narrowly tailored categories of rules are exempted from the usual public notice and participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each and every member of the defined class:

Rules which are mandated by federal law or regulation are exempted from the usual public notice and public participation requirements in any situation where the commission has no option but to adopt specified rules or where federal funding is contingent upon the adoption of the rules. Notice and public participation would be unnecessary since the provisions of the law or regulation must be adopted in order to maintain federal funding and the commission would have no option in the rule which was adopted.

3.10(3) *Public proceedings on rules adopted without them.* The department may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule adopted in reliance upon subrule 3.10(1). Upon written petition by a governmental subdivision, the administrative rules review committee, a department, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, the department shall commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 3.10(1). Such a petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. The rule-making proceeding on that rule must be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding is commenced pursuant to this subrule, the commission may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 3.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

111—3.11(17A) Concise statement of reasons.

3.11(1) *General.* When requested by a person, either prior to adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the department shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and must be delivered to the Administrative Rules Coordinator, Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

3.11(2) *Contents.* The concise statement of reasons shall contain:

- a. The reasons for adopting the rule;
- b. An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as finally adopted, with the reasons for any such change;

c. The principal reasons urged in the rule-making proceeding for and against the rule, and the reasons for overruling the arguments made against the rule.

3.11(3) *Time of issuance.* After a proper request, the department shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request.

111—3.12(17A) Contents, style, and form of rule.

3.12(1) *Contents.* Each rule adopted by the commission shall contain the text of the rule and, in addition:

- a. The date the commission adopted the rule.
- b. A brief explanation of the principal reasons for rule-making action if such reasons are required by 1998 Iowa Acts, chapter 1202, section 8, or the department in its discretion decides to include such reasons.
- c. A reference to all rules repealed, amended, or suspended by the rule.
- d. A reference to the specific statutory or other authority authorizing adoption of the rule.
- e. Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule.
- f. A brief explanation of the principal reasons for the failure to provide for waivers to the rule if no waiver provision is included and a brief explanation of any waiver or special exceptions provided in the rule if such reasons are required by 1998 Iowa Acts, chapter 1202, section 8, or the department in its discretion decides to include such reasons.
- g. The effective date of the rule.

3.12(2) *Incorporation by reference.* The department may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the department finds that the incorporation of its text in the proposed or adopted rule would be unduly cumbersome, expensive or otherwise inexpedient. The reference in the proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The department may incorporate such matter by reference in a proposed or adopted rule only if the department makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from this department, and how and where copies may be obtained from an agency of the United States, this state, another state, or the organization, association or persons originally issuing the matter. The department shall retain permanently a copy of any materials incorporated by reference in a rule of the department.

If the department adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically.

3.12(3) *References to materials not published in full.* When the administrative code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be unduly cumbersome, expensive or otherwise inexpedient, the department shall prepare and submit to the administrative code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted material. This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the department. The department will provide a copy of the full text (at actual cost) upon request and shall make copies of the full text available for review at the state law library and may make the standards available electronically.

At the request of the administrative code editor, the department shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive or otherwise inexpedient.

To facilitate transcription into alternative media, the complete text of the proposed rule shall be published in the Notice of Intended Action whenever possible.

3.12(4) *Style and form.* In preparing its rules, the department shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.
[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—3.13(17A) Department rule-making record.

3.13(1) *Requirement.* The department shall maintain an official rule-making record for each rule it proposes by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, or adopts. The rule-making record and materials incorporated by reference must be available for public inspection.

3.13(2) *Contents.* The department rule-making record shall contain:

a. Copies of all publications in the Iowa Administrative Bulletin with respect to the rule or the proceeding upon which the rule is based and any file-stamped copies of department submissions to the administrative rules coordinator concerning that rule or the proceeding upon which it is based.

b. Copies of any portions of the department's public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based.

c. All written petitions, requests and submissions received by the department, and all other written materials of a factual nature as distinguished from opinion that are relevant to the merits of the rule and that were created or compiled by the department and considered by the director or the commission in formulation, proposal or adoption of the rule or the proceeding upon which the rule is based, except to the extent the department is authorized by law to keep them confidential; provided, however, that when any such materials are deleted because they are authorized by law to be kept confidential, the department shall identify in the record the particular materials deleted and state the reasons for that deletion.

d. Any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by the presiding officer summarizing the contents of those presentations.

e. A copy of any regulatory analysis or fiscal impact statement prepared for the proceeding upon which the rule is based.

f. A copy of the rule and any concise statement of reasons prepared for that rule.

g. All petitions for amendments of, or repeal or suspension of, the rule.

h. A copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general.

i. A copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any department response to that objection.

j. A copy of any significant written criticism of the rule, including a summary of any petitions for waiver of the rule.

k. A copy of any executive order concerning the rule.

3.13(3) *Effect of record.* Except as otherwise required by provision of law, the department rule-making record required by this rule need not constitute the exclusive basis for department action on the rule.

3.13(4) *Maintenance of record.* The department shall maintain the rule-making record for a period of not less than five years from the later of the date the rule to which it pertains became effective or the date of the Notice of Intended Action.

111—3.14(17A) Filing of rules. The department shall file each rule adopted by the commission in the office of the administrative rules coordinator. The filing must be executed as soon after adoption as is practicable. At the time of filing, each rule must have attached to it any fiscal impact statement and any

concise statement of reasons that were issued with respect to that rule. If a fiscal impact statement or statement of reasons for that rule was not issued until a time subsequent to the filing of that rule, the note or statement must be attached to the filed rule within five working days after the note or statement is issued. In filing a rule, the department shall use the standard form prescribed by the administrative rules coordinator.

111—3.15(17A) Effectiveness of rules prior to publication.

3.15(1) *Grounds.* The commission may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The department shall incorporate the required findings and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

3.15(2) *Special notice.* When the commission makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) “b”(3), the department shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule’s indexing and publication. The term “all reasonable efforts” requires the department to employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the department of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, personal notice or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) “b”(3) shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of subrule 3.15(2).

111—3.16(17A) General statements of policy.

3.16(1) *Compilation, indexing, public inspection.* The department shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(10) “a,” “c,” “f,” “g,” “h,” and “k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section 17A.2(10) “f,” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

3.16(2) *Enforcement of requirements.* A general statement of policy subject to the requirements of this rule shall not be relied on by the department to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 3.16(1) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

111—3.17(17A) Review by department of rules.

3.17(1) Any interested person, association, department, or political subdivision may submit a written request to the administrative rules coordinator requesting the department to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the department shall conduct a formal review of a specified rule to determine whether a new rule should be adopted instead or the rule should be amended or repealed. The department may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

3.17(2) In conducting the formal review, the department shall prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the department's findings regarding the rule's effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the department or granted by the department. The report shall describe alternative solutions to resolve the criticisms of the rule, the reason any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the department's report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

These rules are intended to implement Iowa Code chapter 17A and Iowa Code section 25B.6.

[Filed 1/22/88, Notice 11/4/87—published 2/10/88, effective 3/16/88]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed 3/24/99, Notice 2/24/99—published 4/21/99, effective 5/26/99]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 6
LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED

[Prior to 7/1/87, see Blind, Commission for[160] rule 2.4]

[Prior to 9/21/88, see Blind, Division for the[423] Ch 6]

111—6.1(216B) Function. The library for the blind and physically handicapped provides library services to Iowans who are blind, reading disabled and physically handicapped, as delineated in rule 6.3(216B), who cannot use information in standard print formats.

111—6.2(216B) Services. Services include, but are not limited to, provision and circulation of books, magazines and videos in braille, recorded cassette, digital audio, digital cartridge, electronic text, descriptive video, or large-type formats; provision and maintenance of playback equipment; transcription, production and duplication of standard print material into braille, digital audio, large print, or electronic text formats; and research, acquisition by loan or purchase, or production of instructional materials.

6.2(1) Transcription of standard print reading materials into alternative media. Transcription of standard print reading materials into the alternative media of braille, digital audio, large print, or electronic text shall be provided to the extent that resources are available and following research of the library for the blind and physically handicapped and other libraries, volunteer production agencies, and vendors which confirm that the requested item is not available in any alternative media which can be effectively used by the library patron; or that the item exists, but cannot be acquired by loan, purchase, or duplication. Priority will be given to requests which enable persons to meet a vocational or educational need. Transcription is one method of providing access to standard print reading materials, and will be used in combination with other resources in order to provide as much support as possible to each person requesting transcription services. Other requests will be honored contingent upon availability of resources.

6.2(2) Reserved.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—6.3(216B) Eligibility. The following persons are eligible for services:

Blind persons;

Physically handicapped persons—

1. Whose visual disability, with correction, regardless of visual measurement, prevents the reading of standard print material, or
2. Who are unable to read or unable to use standard print material as a result of physical limitations, or
3. Who have a reading disability resulting from organic dysfunction, and of sufficient severity, to prevent the reading of print material in a standard manner.

6.3(1) Library services are available to children and adults.

6.3(2) Eligibility will be determined in compliance with applicable federal and state laws prohibiting discrimination on the basis of age, race, creed, color, sex, national origin, religion, or disability.

111—6.4(216B) Application procedures. The Application and Certification of Eligibility for Library Services form must be completed, and must be signed by a competent authority.

6.4(1) In cases of blindness, visual disability or physical limitations, “competent authority” is defined as a doctor of medicine; doctor of osteopathy; ophthalmologist; optometrist; registered nurse; therapist; or member of the professional staff of a hospital, institution, public or welfare agency (i.e., a social worker, case worker, counselor, rehabilitation teacher or superintendent). In the absence of any of these, certification may be made by a professional librarian or by any person whose competence under specific circumstances is acceptable to the department and the Library of Congress.

6.4(2) In the case of reading disability from organic dysfunction, “competent authority” is defined as a doctor of medicine or doctor of osteopathy who may consult with colleagues in associated disciplines.

6.4(3) Applicants who use only large print materials must obtain the certification of a competent authority.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—6.5(17A) Forms. Rescinded IAB 6/26/02, effective 7/31/02.

These rules are intended to implement Iowa Code section 17A.3 and Iowa Code chapter 216B.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

[Filed 8/24/84, Notice 3/14/84—published 9/12/84, effective 10/18/84]

[Filed 2/23/87, Notice 10/8/86—published 3/11/87, effective 4/15/87]

[Filed 6/9/87, Notice 3/25/87—published 7/1/87, effective 8/5/87]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed 2/1/90, Notice 11/15/89—published 2/21/90, effective 3/28/90]

[Filed 6/27/97, Notice 5/7/97—published 7/16/97, effective 8/20/97]

[Filed 6/5/02, Notice 5/1/02—published 6/26/02, effective 7/31/02]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 8
APPEALS PROCESS—BUSINESS ENTERPRISES PROGRAM

[Prior to 7/1/87, see Blind, Commission for[160] Ch 10]

[Prior to 9/21/88, see Blind, Division for the[423] Ch 8]

111—8.1(216D) Steps in appeals process. There are four steps in the appeals process of the Iowa department for the blind's business enterprises program:

1. Informal conciliation,
2. Hearing before the commission,
3. Full evidentiary hearing, and
4. Arbitration.

These steps must occur in the order in which they are listed and are more fully described herein, except that step 2 is optional.

8.1(1) Step 1: Informal conciliation. This is the necessary first step in the process to resolve any grievance. Either the vendor or the staff can commence informal conciliation. Informal conciliation must occur before any other steps in the grievance process can be used.

Informal conciliation occurs all the time and is not usually given a name by the participants, but is sometimes called administrative review. It can, but does not necessarily, involve a personal meeting between the vendor and the staff. Informal conciliation occurs when either the vendor or the staff is dissatisfied with the action of the other and contacts the other to try to work out the dissatisfaction. This contact can be by phone, by letter, or in person and usually involves discussion and negotiation of the point over a period of time. Both the vendor and staff have an interest in working out grievances informally since this is the least costly, least time-consuming, and least disruptive way of resolving differences. However, both the vendor and the staff have the right to adhere to their opinion and to move to the next step in the grievance process if informal conciliation does not resolve the grievance in a manner satisfactory to them. If either the vendor or the staff remains dissatisfied after a good-faith effort by both to resolve the grievance, then either the vendor or staff can move to the next allowable step.

8.1(2) Step 2: Hearing before the commission. This step is only available to the vendor. The staff cannot initiate a hearing before its own policy-making entity. This step is simply an option for the vendor. The vendor may choose to skip this step completely and move directly from step 1 to step 3. If the vendor chooses to skip step 2, the vendor has used all administrative remedies available to the vendor, including the option to skip a remedy.

a. The commission makes its own rules concerning procedure case-by-case at the hearing itself. If either the vendor or the staff is unsure about the procedure, the commission members should be asked to explain the procedure before the hearing starts. These hearings are generally informal, conducted by the commission so that both sides have an opportunity to present to the commission whatever the commission believes is relevant to the decision it is being asked to make.

b. It is possible that, under certain circumstances, a hearing before the commission would be a closed hearing. Unless all the proper circumstances exist to close the hearing, the hearing must be held as a part of an open, publicized meeting of the commission and listed on its agenda. One set of circumstances which could close such a hearing will arise when the vendor is seeking, as a part of the commission's decision, that the commission "evaluate the professional competency" of a department staff member concerning that staff member's "appointment, hiring performance, or discharge" and when that staff member asks the commission to go into closed session as provided in the Iowa open meetings law, Iowa Code chapter 21.

c. Another set of circumstances which could close the commission hearing may arise if the vendor or the staff wishes to raise during the hearing matters which are considered confidential. The documents which are confidential are likely to be very limited and the decision to close the hearing or to leave it open will have to be made on a case-by-case basis.

d. The Iowa open meetings law, Iowa Code chapter 21, insists that only those meetings or parts of meetings specifically exempted by a precise section of the law may be legally closed; therefore, if an exemption is not specifically met, the meeting of the commission under this subrule shall be open.

e. A vendor who has used this step in the appeals process and is dissatisfied with the result then moves to step 3.

8.1(3) Step 3: Full evidentiary hearing. Either a vendor or the staff can commence the full evidentiary hearing process, which is a required step in the appeals process. A full evidentiary hearing is part of the appeals process guaranteed to the vendor by the federal Randolph-Sheppard Act.

a. The full evidentiary hearing process is governed by rule 111—8.2(216D).

b. If the vendor is dissatisfied with the decision after a full evidentiary hearing, then the vendor may move to step 4.

8.1(4) Step 4: Arbitration. A vendor can commence arbitration if dissatisfied with the ruling after a full evidentiary hearing. Arbitration is a required step in the appeals process. Arbitration is a part of the appeals process guaranteed to the vendor by the federal Randolph-Sheppard Act. Essentially, arbitration occurs by the vendor's filing a complaint with the United States Secretary of Education, who then convenes a three-member arbitration panel. The vendor chooses one member of the three-member arbitration panel, the department chooses the second member, and those two persons choose a third person agreeable to both who serves as chair of the arbitration panel.

At the full evidentiary hearing and the arbitration stages of the appeals process, proceedings shall be conducted much like proceedings in a court of law. Both these proceedings are open to the public. The department is normally represented at both by an assistant attorney general. The vendor may be represented by an attorney or by a knowledgeable friend at the commission hearing, the full evidentiary hearing, and the arbitration hearing. The court-reported record of testimony and the documents admitted into evidence at the arbitration step shall serve as the complete record of proceedings for any further appeals. No more evidence can be added if the vendor or the department appeals the arbitration panel's decision into the federal courts. Appeal from the arbitration decision goes to the federal district court and can go as far as the supreme court of the United States.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—8.2(216D) Full evidentiary hearings. These rules define procedures under which full evidentiary hearings, required by the Randolph-Sheppard Act, shall be conducted in Iowa.

8.2(1) Definitions:

"Day" means a regular working day for employees of the state of Iowa.

"Full evidentiary hearing" means the proceeding defined by the Randolph-Sheppard Act, 20 U.S.C. 107D-1(a) and 34 CFR 395.13, July 1, 1981.

"Petitioner" means the person or agency which files the petition commencing the full evidentiary hearing proceeding.

"Respondent" means the person or agency named by the petitioner as a person or agency against which the petition is brought and from whom the petitioner seeks stated responses.

8.2(2) Commencement of proceeding.

a. How commenced. A full evidentiary hearing proceeding may be commenced by the department or by a vendor. A full evidentiary hearing proceeding is commenced by filing a petition with the director and serving the petition on the respondent in the manner described in these rules.

b. Commencement by department. If the department believes that a vendor has violated the terms of the operator's agreement then in effect between the department and the vendor, or believes the vendor has violated the rules governing the business enterprises program in Iowa so as to warrant suspension or revocation of a vendor's operating agreement or license, the department shall file a petition naming the vendor as respondent. However, in cases of imminent threat to the health or safety of vending facility patrons or concern for retention of the permit to operate a facility as governed by 111—subrule 7.5(2), the department may remove a vendor as provided in that subrule but at the same time must initiate the evidentiary hearing procedures contained in this subrule.

c. Commencement by vendor. If a vendor believes that the department has violated a right guaranteed to the vendor by the Randolph-Sheppard Act or Iowa law, or if the vendor is otherwise aggrieved by the action of the department, the vendor may file a written petition naming the department

as respondent within 15 days after an adverse decision from an administrative review or within 15 working days of the occurrence in the absence of an administrative review.

d. Hearing officer involved. When the director has received a petition and a response has been filed with the director under these rules, the director shall provide these documents to an impartial hearing officer selected according to law and shall thereafter act only as the employee of one of the parties. After the director has referred the documents as provided in this subrule, then the director shall serve notice upon all parties of the identity, telephone number, and address of the hearing officer in the manner prescribed in these rules.

8.2(3) The petition.

a. Contents of the petition. The petition shall be a clear, concise written statement which shall:

1. Identify the petitioner;
2. Identify the petitioner's representative;
3. Identify the respondent;
4. Give a general statement of the facts the petitioner believes constitute a violation of respondent's duty to petitioner or a violation of petitioner's rights or a grievance on petitioner's behalf;

5. In the case of the department, give the specific portion or portions of the operator's agreement or license or rules believed to have been violated;

6. In the case of a vendor, give a statement of the provisions of law on which the vendor bases a claim or violation of a right or other grievance; and

7. Give a general statement of the relief sought and the basis for such relief.

b. Serving of petition. The petitioner shall serve the petition upon the director and upon the respondent in the manner described in these rules. If the petitioner is the department, the filing of the petition with the director and serving of the petition upon respondent shall be sufficient to commence the proceeding.

8.2(4) The response.

a. Contents of the response. The response shall be a clear, concise statement which shall:

1. Identify the respondent;
2. Identify the respondent's representative;
3. Identify the petitioner;
4. Give a general statement of the facts the respondent believes constitute a legal and complete explanation for respondent's behavior;

5. In the case of the department, given specific citations to federal or Iowa law upon which it relies to explain its actions;

6. In the case of a vendor, give a statement of the provisions of law upon which the explanation is based;

7. Give a general statement of the appropriate conclusion of the proceeding from the respondent's point of view;

8. Concede as true those facts stated by the petitioner and not disputed by the respondent;

9. Concede the applicability and the correctness of the application of any law or regulation cited by the petitioner and not disputed by the respondent; and

10. Concede the appropriateness of any relief sought by the petitioner which the respondent agrees is appropriate.

b. Serving of response. Within ten days of the service of a petition prepared under subrule 8.2(3), the respondent shall file a response with the director. The response shall be served upon the director and on the petitioner in the manner described in these rules. If the respondent is the department, the filing of the response with the director is sufficient service upon the department.

c. Failure to respond. If the director receives a petition which is properly served in the manner described in these rules and to which no response is filed within ten days, then the director shall refer the petition to the hearing officer as described in subrule 8.2(2), paragraph "d." A party failing to file a response shall be taken by the hearing officer as having conceded each and every fact and application of law alleged in the petition concerning the respondent unless able to show good cause for failing to file

within ten days. The hearing officer shall direct in such cases that a response be filed as soon after the ten-day period as the hearing officer deems reasonable.

8.2(5) Discovery.

a. Petitioner's discovery, generally. Upon the filing and service of a petition, the petitioner becomes entitled to discovery.

b. Respondent's discovery, generally. Upon the filing and service of a response, a respondent becomes entitled to discovery.

c. Voluntary discovery encouraged. All parties are entitled to take court-reported depositions from persons they believe have relevant evidence, except that a vendor who is a respondent may not be compelled to give a deposition. All parties are entitled to request voluntary production of documents and things in the possession of another party.

d. Department's duty to disclose. Upon request, the department must produce for a vendor's inspection and copy any documents and things requested by the vendor and must produce for deposition any commission member or employee requested by the vendor.

e. Discovery by subpoena. If any party seeks relevant evidence not under the control of the department and cannot obtain the evidence by voluntary compliance, the hearing officer is empowered to use the subpoena power of the department to subpoena witnesses for depositions and to subpoena the production of documents and things for inspection by all parties.

f. Notice of discovery events. All parties shall be given notice in the manner described in these rules of all depositions to be taken and of all productions of documents and things, whether performed voluntarily or pursuant to a subpoena.

g. Hearing officer to supervise. The hearing officer shall supervise discovery and shall ensure:

1. That each side has the opportunity to find and examine all evidence it deems relevant;
2. That all parties conduct discovery as quickly as possible so there is no unnecessary delay of the proceedings to the harm of any party; and
3. That no party or citizen is unnecessarily burdened with repetitive cumulative or harassing requests for discovery except that the department shall be held strictly to its duty to produce as defined in subrule 8.2(5), paragraph "d."

h. Sanctions. If the hearing officer determines that any party is refusing to cooperate in discovery, is hiding evidence, or is unnecessarily delaying or dawdling in discovery to the harm of any other party, then the hearing officer shall grant some or all of the relief sought by the harmed party.

8.2(6) Hearing date and scheduling conferences.

a. Setting of hearing date. As soon after the filing and service of the response as can be arranged, the hearing officer shall hold a conference between the parties to set a date for the hearing. All parties shall provide to the hearing officer their best estimate of how long their discovery will take and shall provide suggested hearing dates. The hearing officer shall then set a date for the hearing, taking into consideration the estimates of each party concerning discovery, the convenience of witnesses and counsel, and the need to conduct the proceedings expeditiously. Testimony shall be taken evenings or weekends if blind persons who are employed are to be called as witnesses. The hearing officer shall write an order scheduling the date for the hearing within 15 working days of receipt of a response unless the vendor and the department agree in writing to some other period of time.

b. Rescheduling of hearing date. If any party finds that discovery is taking longer than estimated despite the party's efforts or for any other good cause, the hearing officer may reschedule the hearing for a later date by means of a second conference at which the party seeking rescheduling shall state its reasons and any other party has the opportunity to object. After hearing all relevant statements from the parties, the hearing officer shall reschedule the date or not reschedule the date as required by equity, the provisions of subrule 8.2(5), paragraph "g," giving the hearing officer supervisory authority over discovery, and the provisions of subrule 8.2(6) governing the setting of hearing dates.

c. Methods of holding conferences. Conferences held under this rule may be held in person or by telephone or by a combination of both, according to the convenience of the hearing officer and the parties.

d. Notice. Notice of these conferences shall be served upon all parties in the manner described in these rules.

8.2(7) Prehearing conference.

a. Scheduling the conference. The hearing officer shall schedule a prehearing conference so that all parties or representatives may be present. Normally it will be held 20 days before the date set for the hearing, but the date of this conference may be more than 20 days before the date set for the hearing if all parties agree, if the date would otherwise fall on a weekend, or if the hearing officer's schedule requires it. In no case shall the prehearing conference be nearer to the date set for the hearing than five days. The hearing officer shall serve notice of the prehearing conference at least ten days prior to the date set for the conference in the manner described in these rules. If any party objects to the time set for the conference, the party shall immediately notify the hearing officer and the hearing officer shall conduct an immediate conference with all parties as soon as possible so the prehearing conference can go forward. Aside from the provisions of this paragraph, the hearing officer shall only change the prehearing conference to accomplish the provisions of subrule 8.2(7), paragraph "b."

b. Conference in person. To the greatest extent possible, the hearing officer shall schedule the prehearing conference so that all parties may be present in person or through their representatives being present in person.

c. Facts and law. During the prehearing conference, the hearing officer shall determine the facts on which all parties agree, the facts on which any parties disagree, the applications of law about which all parties agree, and the areas of applications of law about which the parties disagree.

d. Witnesses exchanged. During the prehearing conference, each party shall provide the hearing officer and the other parties with a list of the witnesses the party intends to call at the hearing. If any party does not recognize a witness or the purpose for which the witness is being called, the hearing officer shall require the party intending to call the witness to describe briefly the witness including the witness' relation to any party and shall require a brief summary of the testimony the witness is expected to provide.

e. Documents exchanged. During the prehearing conference, each party shall provide the hearing officer and all other parties a copy of every document the party intends to introduce into evidence and a copy of every document the party might introduce during its case or during rebuttal. The hearing officer may designate those documents intended to be introduced at this time if that is desired. Upon the request of any party, the party offering a document shall be required to identify the person or persons who prepared a document and the source of information presented in a document.

f. Objections to evidence. During the prehearing conference, the hearing officer shall hear and determine all objections to the admission of evidence which can be fully and fairly made at this time so that time at the hearing can be used for the taking of admissible evidence.

g. Settlement. During the prehearing conference, the hearing officer shall encourage the reaching of a settlement agreement which is fair and equitable to all parties.

h. Completing discovery. During the prehearing conference, the hearing officer shall settle all unresolved matters of discovery.

i. Final discovery schedule. At the end of the prehearing conference, the hearing officer and all parties shall jointly make a schedule for completing any discovery to ensure that the hearing shall proceed on schedule.

j. Prehearing order. Within one week of the prehearing conference, the hearing officer shall prepare and serve upon all parties in the manner described in these rules a prehearing order which shall:

1. List the participants in the conference and whether they were present in person or by telephone;
2. State the relevant facts and applications of law not in dispute;
3. State the facts and applications of law which constitute the dispute;
4. Attach the list of witnesses of each party;
5. List the exhibits intended to be introduced by each party, giving designations if already assigned;
6. Attach the schedule for completing discovery;

7. Set forth any rulings on the admissibility of evidence together with the reason why the ruling is made.

8.2(8) *The hearing.*

a. Order of presentation. The order of presentation at the hearing shall be as follows:

1. Opening statement by petitioner;
2. Opening statement by respondent;
3. Witnesses and exhibits from petitioner;
4. Witnesses and exhibits from respondent;
5. Rebuttal witnesses and exhibits from petitioner;
6. Rebuttal witnesses and exhibits from respondent;
7. Closing statement by petitioner;
8. Closing statement by respondent; and
9. Rebuttal statement by petitioner.

b. Evidence. During the hearing, the hearing officer shall receive all oral and documentary evidence from witnesses, documents and things which are relevant to the issues in dispute. The hearing officer may exclude totally irrelevant evidence or evidence which is repetitive and shall admit the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, even if it would be inadmissible in a jury trial. During the presentation of evidence by one party, the other party and the hearing officer may cross-examine witnesses. Objections to evidence that it is totally irrelevant or repetitive must be made and ruled upon, where possible, at the prehearing conference. If the hearing officer excludes evidence in the prehearing order, the party offering the evidence may offer the excluded evidence again at the hearing if other evidence makes the excluded evidence relevant to the party's case or rebuttal.

c. Subpoenas. The hearing officer is empowered to use the subpoena power of the department to compel the attendance of witnesses and the production of documents on behalf of any party which seeks a subpoena and shows that the evidence cannot otherwise be presented.

d. Reporting or recording. The hearing shall be reported by a certified shorthand reporter or, by agreement of all parties, the hearing may be tape recorded. If the hearing is reported, the department shall pay for the reporter. If the hearing is recorded, any party may transcribe the hearing at the party's own expense. The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.

e. Offering of new evidence and recesses for reading it. If any party seeks to introduce a document into evidence which was not exchanged with other parties at the prehearing conference as required in subrule 8.2(7), paragraph "e," the hearing officer shall hear objections to the admission of the document on the grounds it was not so exchanged. The document shall be admitted only if the party offering the document can show that the party did not know of the existence of the document before the prehearing conference or had some other good reason why the document was not exchanged as required. If a document is offered into evidence, any blind hearing officer, blind representative, or blind vendor may automatically have a recess of the hearing for a reasonable time to study the document.

f. Burden of proof. The burden of proof shall rest upon the petitioner at all times, and the decision of the hearing officer shall be rendered according to the preponderance of the evidence.

g. Briefs. Within ten days after the hearing, the petitioner may file with the hearing officer a brief which shall be served upon all other parties in the manner prescribed in these rules and which shall summarize the facts and state the applicable law. Within five days after the filing of a petitioner's brief, the respondent may file a reply brief summarizing the facts and stating the law which shall be served upon all parties in the manner described in these rules. Within five days of filing a reply brief, the petitioner may file a rebuttal brief, which shall be served on all parties. If any party chooses not to file a brief, the parties following it in order may still file briefs. Any party may waive the filing of briefs.

8.2(9) *Decision on the record.*

a. Written decision. Within 15 working days after receipt of the official transcript, the hearing officer shall render a decision. The decision shall be written and shall be served upon all parties in the manner described in these rules.

b. Finality of decision. The decision of the hearing officer shall be final unless a party appeals the decision as provided in subrule 8.2(10).

c. Contents of decision. The hearing officer's decision shall clearly state the facts found by the hearing officer, the law found by the hearing officer to be applicable, the hearing officer's specific applications of the law to the dispute presented at the hearing, and the relief to be granted, if any, which the hearing officer finds to be fair, equitable, and according to law.

d. Reader services or other communication services. Reader services or other communication services will be arranged for a vendor requesting them. Transportation costs and per diem shall be provided to the vendor if the evidentiary hearing is in a city other than the legal residence of the vendor. The hearing will be held at a time and place convenient and accessible to the vendor.

8.2(10) Appeal. A vendor dissatisfied with the decision rendered after a full evidentiary hearing may request that an arbitration panel be convened by filing a complaint with the United States Secretary of Education, as described in 20 U.S.C. 107D-1(a) and 34 CFR 395.13, effective July 1, 1981, and serving upon all other parties the letter demanding arbitration.

8.2(11) Settlement. The hearing officer shall at all times encourage settlement by the parties before the hearing. The hearing officer shall be satisfied that any settlement decree proposed by the parties is fair and equitable to all parties and, if so, shall sign the decree along with all the parties and shall retain jurisdiction over the parties for a reasonable period, to be provided for in the decree, to ensure that the decree is implemented.

8.2(12) Hearing officer.

a. Generally. The hearing officer shall conduct all proceedings to ensure every party an opportunity to make its case and to avoid unnecessary delay. The hearing officer shall be an impartial, qualified official who has no involvement either with the action at issue or with the administration or operation of the vending program. The hearing officer shall be a qualified state agency hearing officer and shall in no case be a staff member of the department.

b. Interim orders. The hearing officer shall have the power to make all interim orders deemed necessary for the orderly and fair progression of the proceeding. Where appropriate, the hearing officer may make orders determining the interim relation of the parties in the proceeding.

c. Sanctions. The hearing officer shall have the power to supervise the proceeding generally and to fashion those orders for punishment of dawdling or misbehavior of any party which fairness requires. These orders may include the granting of some or all of the relief sought by the party who was harmed by the dawdling or misbehavior of a party.

d. Ex parte communication prohibited. The hearing officer shall not communicate directly or indirectly about any issue of fact or law in the hearing with any party except with notice and opportunity for all parties to participate as provided in these rules.

8.2(13) Representatives.

a. Representatives designated. Upon the filing of a petition or response, every party shall designate the person, if any, who will serve as the party's representative, giving work and home telephone numbers and work address of the representative. Vendors may choose to represent themselves and shall, if they choose to do so, indicate that choice on the petition or response. The department may choose to have one of its employees serve as representative and, if it elects to do so, shall so indicate on the petition or response. Any party may choose to be represented by an attorney. Any party may choose to be represented by a friend, advocate, or representative not licensed to practice law.

b. Change of representative. If, at any time, for any reason, the designation of representative of a party changes, that party shall immediately serve notice in the manner described in these rules upon the hearing officer and all other parties, identifying the new representative and giving the information required to be provided by subrule 8.2(13), paragraph "a."

c. Duties of representatives. The representative designated by a party shall appear with the party at all points in the proceeding. The party may be represented at any point in the proceeding by the representative alone. The representative shall have the power to act for and to bind the party represented, after consultation with that party.

8.2(14) Notice and service.

a. Form of notice. Every petition, response, notice, order, decision, and other document required to be served under these rules shall be served on every party in standard print. In addition to the standard print document, a blind vendor, blind representative, or blind hearing officer shall also receive service in braille, tape, or large print at the choice of the vendor, representative, or hearing officer. The department shall maintain a list of choice of alternative medium of each vendor. Documents served in the alternative medium shall be served in a timely manner.

b. Basic documents. The petition or response, the prehearing order, and the hearing officer's decision shall be served upon the blind vendor, blind representative, or blind hearing officer in the medium of that person's choice in addition to service in standard print. This requirement cannot be waived.

c. Hearing officer serving notices, orders. In addition to sending scheduling notices to a blind vendor or blind representative in standard print, the hearing officer may telephone the blind person and read the notice over the telephone as the alternative medium for the blind person. If the hearing officer elects this method, the hearing officer shall keep a log showing the time and date of the call. If the hearing officer chooses this method, no discussion of the proceeding shall occur during the call except that the receiver may register objections to scheduling. The prehearing order and the decision will be produced by the department and in a timely manner unless the hearing officer chooses to tape or braille these documents personally.

d. Waiver. The blind vendor, blind representative, or blind hearing officer may waive service of all documents, except basic documents, in an alternative medium by filing a waiver with the hearing officer and serving the waiver on all parties.

e. Service methods. Service of documents can be made in one of three ways: By a sheriff or deputy who prepares for the serving party a return of service; by certified mail, return receipt requested, with a delivery restricted to the party to be served; or by a person not employed by or related to any party who is over 18 years of age and who hands the document to the party to be served and makes a return of service for the serving party.

f. Service recorded. Every document served under these rules will be accompanied by a statement of how the document is being served, signed by the party doing the serving. Proofs of service will be maintained by the serving party.

g. Serving the department. The department may be served during regular business hours at its Des Moines office through acceptance of the document by the director, a deputy director, or administrative assistant to the director, any one of whom may sign the return receipt.

h. Serving the vendor. The vendor may be served at home or at work, but only the vendor or the vendor's spouse can accept service. If the vendor designates a representative, the representative shall accept service on behalf of the vendor from the time the representative begins to act on the vendor's behalf. The representative may be served in the same manner the department is served. The fact that a representative is accepting service for the vendor does not remove the requirement for service to be in the alternative medium as defined in this rule.

i. Disputes. If a dispute arises concerning the receipt of service, the hearing officer shall examine the documents showing service by the serving party, the intended recipient, and any other relevant evidence. Genuine disputes shall be resolved in favor of the person who states that a document was not received except that a document's being served and then lost at the department shall not constitute failure of service. If the hearing officer finds that a document was not received, the schedule of proceedings shall be adjusted accordingly. If a party misses a deposition, production, or conference due to lack of service, the hearing officer shall fashion an appropriate remedy.

j. Sanctions. If the hearing officer determines that a party deliberately or negligently failed to serve another party who was harmed by the lack of service, the hearing officer shall fashion appropriate sanctions which may include granting some or all of the harmed party's relief.

8.2(15) *Referring to these rules.*

a. Official citation. These rules shall be published in the Iowa Administrative Code with each rule preceded by the agency number and followed by the appropriate Iowa Code section or Acts designation in parentheses.

b. Ordinary citation. During the course of a hearing proceeding in all oral and written statements, these rules may be referred to by simple designation, omitting the Iowa Code reference. For example, this paragraph may be referred to as subrule 8.2(15), paragraph “b.”

c. Availability. To facilitate the availability and use of these rules, each vendor shall be provided with a copy in a designated medium and the library for the blind and physically handicapped shall have copies in all three media available for borrowing. These shall give the Iowa Administrative Code citation at the beginning and shall thereafter use the ordinary designation method described in subrule 8.2(15), paragraph “b.”

These rules are intended to implement Iowa Code chapter 216D.

[Filed 9/20/85, Notice 5/8/85—published 10/9/85, effective 12/18/85]

[Filed 6/9/87, Notice 3/25/87—published 7/1/87, effective 8/5/87]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed 6/27/97, Notice 5/7/97—published 7/16/97, effective 8/20/97]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 9
ADULT ORIENTATION AND ADJUSTMENT CENTER

[Prior to 7/1/87, see Blind, Commission for[160] rule 2.6]

[Prior to 9/21/88, see Blind, Division for the[423] Ch 9]

111—9.1(216B) Function. The adult orientation and adjustment center is a residential rehabilitation program which provides intensive instruction in alternative techniques of blindness and in development of positive attitudes about blindness. The adult orientation and adjustment center also carries out public relations and educational programs in an effort to gain public awareness and recognition of the ability of blind persons to be in the mainstream of society.

111—9.2(216B) Eligibility.

9.2(1) Enrollment in the adult orientation and adjustment center shall be limited to persons 17 years of age or older.

9.2(2) Clients of vocational rehabilitation services or independent living rehabilitation services shall be eligible for admission to the adult orientation and adjustment center as specified in their individual plan for employment.

9.2(3) Persons who remain in the caseloads of vocational rehabilitation or independent living programs in other states shall not be accepted as students in the adult orientation and adjustment center, unless a formal written request from the out-of-state agency is received and approved by the commission. Clients of out-of-state agencies will be enrolled only when doing so would not deny training to an otherwise eligible client of the department.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—9.3(216B) General program policies. Student use of dog guides will not be allowed during program activities of the adult orientation and adjustment center. However, users of dog guides shall otherwise have access to all department facilities, subject to applicable state or federal laws and regulations.

These rules are intended to implement Iowa Code chapter 216B.

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

[Filed 6/9/87, Notice 3/25/87—published 7/1/87, effective 8/5/87]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed 2/1/90, Notice 11/15/89—published 2/21/90, effective 3/28/90]

[Filed 6/27/97, Notice 5/7/97—published 7/16/97, effective 8/20/97]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 10 VOCATIONAL REHABILITATION SERVICES

[Prior to 7/1/87, see Blind, Commission for[160] Ch 2 and rule 3.3.]

[Prior to 9/21/88, see Blind, Division for the[423] Ch 10]

111—10.1(216B) Function. Vocational rehabilitation services assist eligible individuals to achieve an employment outcome consistent with their individual strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

111—10.2(216B) State plan. The state plan for vocational rehabilitation of the blind of Iowa is developed by the department pursuant to federal regulations and submitted to the United States Department of Education, rehabilitation services administration. The state plan delineates the scope of vocational rehabilitation services to individuals and to groups, ensures that written policies are maintained, and provides guidelines for expenditure of funds.

In accordance with 34 CFR 361.29 (as published in the Federal Register on January 22, 2001), reports of statewide studies and evaluations are available to the public for review.
[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—10.3(216B) Application procedures. Persons desiring vocational rehabilitation services should contact the department and must complete the application process. An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate, (1) has completed and signed an agency application form; (2) has provided information necessary to initiate an assessment to determine eligibility and priority of services; and (3) is available to complete the assessment process.

111—10.4(216B) Eligibility.

10.4(1) Eligibility for vocational rehabilitation shall be determined upon the presence of four basic conditions: (1) the existence of blindness as defined in rule 111—1.4(216B); (2) the existence of blindness constitutes or results in a substantial impediment to employment; (3) the individual intends to achieve an employment outcome consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and (4) the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

Applicants who meet the eligibility requirements stated in the paragraph above will be presumed to be able to benefit from vocational rehabilitation services in terms of an employment outcome, unless the department can prove with clear and convincing evidence that the applicant is incapable of benefitting in terms of an employment outcome from vocational rehabilitation services due to the severity of the applicant's disability.

Any applicant who has been determined eligible for social security benefits under Title II or Title XVI of the Social Security Act is (1) presumed eligible for vocational rehabilitation services, and (2) considered an individual with a significant disability.

No duration of residence requirement is imposed that excludes from services any applicant who is present in the state. No applicant or group of applicants is excluded or found ineligible solely on the basis of the type of disability. The eligibility requirements are applied without regard to the age, gender, race, color, creed, or national origin of the applicant; type of expected employment outcome; source of referral; or the particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

Nothing in this rule is to be construed to create an entitlement to any vocational rehabilitation service.

10.4(2) Whenever changed circumstances, such as a decrease in fiscal or personnel resources or an increase in its program costs, indicate that the department may no longer be able to provide a full range of services, as appropriate, to all eligible applicants, the department will invoke an order of selection policy based upon 34 CFR 361.36 (as published in the Federal Register on January 22, 2001).

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—10.5(216B) Services.

10.5(1) Vocational rehabilitation services are any services described in an individualized plan for employment necessary to assist an individual in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

Services may include the following: assessment for determining eligibility and priority for services; assessment for determining vocational rehabilitation needs; vocational rehabilitation counseling and guidance; referral and other services necessary to secure needed services from other agencies and to advise individuals about the client assistance program; physical and mental restoration; vocational and other training services, including personal and vocational adjustment training; maintenance; transportation; vocational rehabilitation services to family members; interpreter services for individuals who are deaf-blind; reader services; rehabilitation teaching services; orientation and mobility services; job-related services, including job search and placement assistance, job retention services, follow-up services and follow-along services; supported employment services; personal assistance services; postemployment services; occupational licenses, tools, equipment, initial stocks and supplies; rehabilitation technology; transition services; technical assistance and other consultation services to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome; and provision of other goods and services determined necessary to achieve an employment outcome.

10.5(2) Services for groups of individuals who are blind. The department may also provide for the following vocational rehabilitation services for the benefit of groups of individuals who are blind: (1) The establishment, development or improvement of a public or other nonprofit community rehabilitation program that is used to provide vocational rehabilitation services that promote integration and competitive employment including, under special circumstances, the construction of a facility. (2) Telecommunication systems that have the potential for substantially improving vocational rehabilitation service delivery methods and developing appropriate programming to meet the particular needs of individuals who are blind, including telephone, television, video description services, satellite, tactile-vibratory devices, and similar systems, as appropriate. (3) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, braille, sound recordings, or other appropriate media; tactile materials for individuals who are deaf-blind; and other special services that provide information through tactile, vibratory, auditory, and visual media. (4) Technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals who disabilities. (5) In the case of any small business enterprise operated by individuals with significant disabilities under the supervision of the department, including enterprises established under the Randolph-Sheppard program, management services and supervision provided by the department along with the acquisition by the department of vending facilities or other equipment, initial stocks and supplies, and initial operating expenses. (6) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual. (7) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to postschool activities, including employment.

10.5(3) Joint planning between an eligible individual and staff will be employed in the development of the individual plan for employment in order to determine which specific services may be needed and to ensure that the individual has the opportunity to make an informed choice regarding employment goals and objectives. The following factors may be taken into account in arriving at a decision as to what services will be provided: the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

111—10.6(216B) Consideration of comparable services and benefits.

10.6(1) Prior to providing any vocational rehabilitation services, except those services listed in subrule 10.6(3), to an eligible individual or to members of the individual's family, the department must

determine whether comparable services and benefits exist under any other program and if those services and benefits are available to the individual. Full consideration is given to any comparable service or benefit available to an eligible blind person under any program, except for grants or awards from organizations of the blind.

10.6(2) To the extent that an individual is eligible for comparable services or benefits, they are utilized insofar as they are adequate and do not interrupt or delay: (1) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment or an immediate job placement; or (2) the provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk.

10.6(3) The following services are exempt from a consideration of comparable services and benefits under subrule 10.6(1) above: (1) assessment for determining eligibility and vocational rehabilitation needs; (2) counseling and guidance; (3) referral services to other agencies; (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services; (5) rehabilitation technology services; (6) postemployment services; and (7) training in the adult orientation and adjustment center.

10.6(4) The consideration of comparable services and benefits under any program does not apply if such a consideration would delay the provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk as defined by rule 111—1.4(216B), based on medical evidence provided by an appropriate qualified medical professional; or an immediate job placement would be lost due to a delay in the provision of comparable services and benefits.

10.6(5) In the event that severe revenue shortages make budget reductions necessary, the department may invoke a limitation on payment of tuition each semester to a rate no greater than the maximum tuition rate effective at institutions operated by the Iowa board of regents for each semester of the individual's enrollment. When it is necessary to invoke this limitation with general notice to the public and to individuals potentially affected, exceptions may be made in cases in which a reasonable necessity for a waiver can be demonstrated, the individual's counselor recommends a waiver, and the program administrator approves the waiver before the individual's enrollment. In no case, however, shall this rule be construed as discouragement of an individual's attending private or out-of-state institutions when utilization of other available funds makes it possible to do so.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—10.7(216B) Termination of services.

10.7(1) A decision to terminate vocational rehabilitation services shall be made only after providing an opportunity for full consultation with the individual or, if appropriate, with the individual's representative.

10.7(2) The individual will be informed in writing of the reasons for the termination of services; furnished information on how the individual may appeal the decision as provided in rule 111—10.8(216B); and provided with a description of the services of the Iowa client assistance program and how to contact that program.

10.7(3) For those individuals who have been determined incapable of achieving an employment outcome, their circumstances will be reviewed annually, if requested, unless they have refused services, are no longer in the state, their whereabouts are unknown, or they have a medical condition which is rapidly progressive or terminal.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—10.8(216B) Dispute resolution process. This rule defines the procedures under which the dispute resolution process, required by the Rehabilitation Act of 1973, shall be conducted by the department.

10.8(1) Definitions.

“Administrative review” means a procedure by which the department may provide an opportunity for an applicant or eligible individual to express and seek remedy for dissatisfaction with a decision regarding the furnishing or denial of services.

“Formal hearing” means a procedure whereby an applicant or eligible individual who is dissatisfied with the findings of an administrative review or mediation concerning the furnishing or denial of services may request a timely review of those determinations before an impartial hearing officer.

While the department encourages the use of the administrative review process to resolve grievances, the administrative review process is not to be used as a means to delay mediation or a formal hearing before an impartial hearing officer unless the parties jointly agree to a delay. An applicant or eligible individual may elect to proceed directly either to mediation or to the formal hearing process. The department will not suspend, reduce, or terminate vocational rehabilitation services to any applicant or eligible individual throughout the administrative review, mediation or formal hearing process before a final agreement or decision is made, unless the applicant or eligible individual or, as appropriate, the applicant’s or eligible individual’s representative so requests, or the department has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the applicant or eligible individual.

“Mediation” means an alternative which an applicant or eligible individual may choose if the applicant or eligible individual is dissatisfied with the findings of an administrative review concerning the furnishing or denial of services.

10.8(2) Administrative review. An applicant or eligible individual may request review of a decision regarding furnishing or denial of services with which the applicant or eligible individual is dissatisfied by submitting a letter to the program administrator of field operations.

a. The program administrator shall acknowledge receipt of the letter and arrangements shall be made for the administrative review to be held at a mutually convenient date, time, and place which shall be within ten days after receipt of the request for review. The applicant or eligible individual shall also be notified of the applicant’s or eligible individual’s right to obtain assistance through the Iowa client assistance program.

b. The administrative review shall consist of review of the case file and any other documentation involved in the subject matter of the review; interviews with the service specialists for the blind and any others directly involved with the subject matter of the review; and an interview with the applicant or eligible individual or, as appropriate, a representative of the applicant or eligible individual.

c. The program administrator shall issue a written decision within five days of the review. The decision shall set forth the issue, principle, and relevant facts established during the review; pertinent provision of law, administrative rule or department policy; and the reasoning upon which the decision is based. The letter transmitting the decision shall advise the applicant or eligible individual that the applicant or eligible individual shall inform the program administrator within seven days that either: (1) the applicant or eligible individual accepts the decision; or (2) the applicant or eligible individual does not accept the decision and wishes to proceed either to mediation or to a formal hearing.

d. A record of the decision and any action resulting from the decision shall be sent to the applicant or eligible individual by mail. The decision and a record of any action resulting from the decision shall be entered into the case file.

10.8(3) Mediation. An applicant or eligible individual who is dissatisfied with the findings of an administrative review or who has elected to bypass the administrative review process may request mediation by submitting a letter to the program administrator. This letter must be received within seven days of the date of determination of the administrative review, if an administrative review has been conducted.

a. The program administrator shall acknowledge receipt of the request for mediation and shall make arrangements for mediation to occur within 30 days of the request to initiate the dispute resolution process. The date, time, and place shall be mutually agreeable to all parties. The applicant or eligible individual shall be notified in writing of the right to submit evidence or information to support the applicant’s or eligible individual’s position and to obtain representation to be present during the mediation sessions. The applicant or eligible individual shall also be notified of the applicant’s or eligible individual’s right to obtain assistance through the Iowa client assistance program. All mediation sessions shall be held in a timely manner and shall be concluded within 45 days of the date that the applicant or eligible individual initiated the dispute resolution process, unless an extension of this time

is agreed upon by all parties. The department will pay costs for the mediator and, when appropriate, transportation, meals and lodging expenses for the applicant or eligible individual which are directly associated with the mediation process. The program administrator will determine who will represent the department during mediation sessions.

b. The department will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services.

c. A mediator will be selected at random or by agreement of the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from the list described in paragraph "b."

d. Discussions which occur during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding.

e. All agreements reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. This agreement shall be prepared by the mediator and mailed within seven days to all parties. The decision and a record of any action resulting from the decision shall be entered into the case file.

f. Either party to the dispute may request a formal hearing. This request must be in writing and must be submitted to the director within seven days of the date of the written mediation agreement.

10.8(4) Formal hearing. An applicant or eligible individual who is dissatisfied with any determinations made concerning the furnishing or denial of vocational rehabilitation services, or the findings of an administrative review or mediation if an administrative review or mediation took place, may request a formal hearing by submitting a letter to the director.

a. The director shall acknowledge receipt of the request and make arrangements for a formal hearing to be held within 60 days of the request of the applicant or eligible individual to initiate the dispute resolution process at a date, time, and place mutually agreeable to both parties. The applicant or eligible individual shall also be notified of the right to have a representative present at the formal hearing and to seek assistance through the Iowa client assistance program. Reasonable time extensions shall be granted for good cause shown at the request of a party or at the request of both parties.

b. The impartial hearing officer shall be an individual who is not an employee of a public agency other than an administrative law judge, hearing examiner, or employee of an institution of higher education. (An individual is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer.) The impartial hearing officer: (1) is not a member of the commission for the blind; (2) has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or eligible individual; (3) has knowledge of the delivery of vocational rehabilitation services, the state plan, and the federal regulations and state rules governing the provision of services; (4) has received training with respect to the performance of official duties; and (5) has no personal, professional, or financial interest that would be in conflict with the hearing officer's objectivity. The director may also request that other designated department personnel be present at the formal hearing. At the request of the applicant or eligible individual, a representative of the applicant or eligible individual and a representative of the Iowa client assistance program may also be present. Any of these persons shall have the opportunity to present relevant evidence.

c. An impartial hearing officer must be selected on a random basis or by agreement between the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from a pool of persons qualified to be an impartial hearing officer.

d. The impartial hearing officer shall inform those present of the confidentiality of matters discussed. The proceedings shall be recorded and, if necessary, transcribed.

e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative, and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the transcript of the hearing upon written request to the director. The decision and a record of any action resulting from the decision shall be entered into the case file.

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan, the federal Vocational Rehabilitation Act of 1973, federal vocational rehabilitation regulations, and state rules and policies.

f. The decision of the impartial hearing officer is final.

10.8(5) Documents provided. Transcripts, notices, responses, and other documents which are an integral part of the dispute resolution process shall be provided to involved parties in standard print format. An applicant or eligible individual, or representative of an applicant or eligible individual, or other involved party may request provision of documents in an alternative medium. Documents in the alternative medium shall be provided in a timely manner.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—10.9(216B) Applicant's and eligible individual's rights. The counselor/teacher must inform the applicant or eligible individual of the applicant's or eligible individual's rights as follows:

10.9(1) A written statement of rights, which sets forth the department's policies and practices with regard to administrative review, fair hearing, confidentiality of records and nondiscrimination, shall be provided to the applicant as a part of the application process.

10.9(2) When an applicant is determined ineligible to receive vocational rehabilitation services, the applicant shall receive written notification of the right to appeal and information concerning services available through the Iowa client assistance program.

10.9(3) The individual plan for employment will include a statement that the individual has been informed of the department's policies regarding administrative review, fair hearing, confidentiality of records and nondiscrimination.

10.9(4) Upon termination of services through the standard case closure procedure, the individual shall be given a written statement of the right to appeal the termination, including information about services available through the Iowa client assistance program.

10.9(5) When disagreement occurs, staff shall verbally inform the applicant or individual of the right to appeal and provide information about services available through the Iowa client assistance program.

111—10.10(17A) Forms. The following forms are used by the vocational rehabilitation services program:

1. Application for rehabilitation services—used for application for vocational rehabilitation services from the department.

2. Individual plan for employment (IPE)—used by the counselor/teacher and individual to develop a blind person's program for rehabilitation. The IPE must contain the following statements: mutual agreement and understanding between individual and counselor; department's program responsibilities; individual responsibilities; review and evaluation of progress toward objectives and goal; and individual rights and remedies. In addition, the IPE provides for mutual development of a vocational goal, summary of planned services, accepted criteria for review and evaluation purposes and individual acceptance and response.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

These rules are intended to implement Iowa Code chapter 216B.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

[Filed 10/7/83, Notice 5/11/83—published 10/26/83, effective 12/1/83]

[Filed 8/24/84, Notice 3/14/84—published 9/12/84, effective 10/18/84]

[Filed 2/23/87, Notice 10/8/86—published 3/11/87, effective 4/15/87]

[Filed 6/9/87, Notice 3/25/87—published 7/1/87, effective 8/5/87]

[Filed 12/23/87, Notice 10/21/87—published 1/13/88, effective 2/17/88]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed emergency 9/2/88—published 9/21/88, effective 9/2/88]

[Filed 2/1/90, Notice 11/15/89—published 2/21/90, effective 3/28/90]

[Filed 6/27/97, Notice 5/7/97—published 7/16/97, effective 8/20/97]^o

[Filed 12/8/99, Notice 10/20/99—published 12/29/99, effective 2/2/00]

[Filed 6/5/02, Notice 5/1/02—published 6/26/02, effective 7/31/02]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

◊ Two or more ARCs

CHAPTER 11 INDEPENDENT LIVING REHABILITATION SERVICES

[Prior to 9/21/88, see Blind, Division for the[423] Ch 11]

111—11.1(216B) Function. Independent living rehabilitation services assist blind Iowans who are ineligible for traditional vocational rehabilitation services to achieve their maximum level of independence within family and community life.

111—11.2(216B) Services. Independent living rehabilitation services may include, but are not limited to: teaching alternative techniques of blindness; guidance and counseling; orientation and mobility training; referral; recreational activities; provision and instruction in the use of telecommunication, sensory and other technological aids and devices; and provision of technical assistance through consultation with health care providers and other agencies and organizations who serve blind persons.

Joint planning between the eligible individual and the staff will be employed in the development of an independent living rehabilitation plan (ILRP) in order to identify independent living objectives and services that will be most beneficial in achieving an eligible individual's independence. Eligible individuals will be given the option of waiving the right to a formal, detailed ILRP and may choose to simply list their independent living objectives.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—11.3(216B) State plan. The state plan for independent living (SPIL) is developed pursuant to federal regulations and is submitted to the United States Department of Education, rehabilitation services administration. The SPIL delineates expenditure of funds, describes administrative procedures, establishes program goals, and identifies the scope and extent of services. It is developed, implemented, and evaluated jointly by the Iowa department for the blind, the department of education, division of vocational rehabilitation services, and the Iowa statewide independent living council. The SPIL must be reviewed and revised as necessary but not less than once every three years.

111—11.4(216B) Application for independent living services for older individuals who are blind. The application delineates expenditure of funds, establishes program goals, identifies the scope and extent of services, and defines a plan of operation. The application is submitted to the U.S. Department of Education, Rehabilitation Services Administration. The application assures compliance with federal regulations governing the administration of this program, identifies reporting requirements, and ensures that the following activities will be conducted:

1. Needed services that contribute to the maintenance of, or the increased independence of, older individuals who are blind;
2. Capacity-building efforts, including collaboration with other agencies and organizations; and
3. Outreach to promote community awareness, involvement, and assistance.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—11.5(216B) Eligibility. To be eligible for independent living rehabilitation services, an individual must meet the following criteria: (1) have a severe visual impairment; (2) either be aged 55 or older, or have a severe mental, cognitive, physical, or other sensory impairment; (3) experience a severe limitation in ability to function independently in the family or community, or to obtain, maintain, or advance in employment; and (4) there must be a reasonable expectation that independent living rehabilitation services will improve the individual's ability to function, continue functioning, or move toward functioning independently in family or community, or to continue in employment.

Eligibility will be determined in compliance with applicable federal and state laws prohibiting discrimination on the basis of age, race, creed, color, sex, national origin, religion or disability. Provision of independent living rehabilitation services is not contingent upon economic need. No duration of residence requirement is imposed that excludes from services any applicant who is present in the state.

11.5(1) and 11.5(2) Rescinded IAB 6/26/02, effective 7/31/02.

111—11.6(216B) Application procedures. Persons desiring independent living rehabilitation services should contact the department office and must complete the Application for Independent Living Rehabilitation Services form.

111—11.7(216B) Consideration of comparable services and benefits.

11.7(1) Full consideration is given to any comparable services and benefits available to a blind person under any program (for example, workers' compensation, supplemental security income, social security disability insurance) to meet in whole or in part the cost of independent living rehabilitation services provided to an individual except assessment for determining eligibility and independent living rehabilitation needs; counseling and guidance; information and referral; and personal and vocational adjustment training and related training supplies.

11.7(2) Full consideration of comparable services and benefits shall not be given when this consideration would delay the provision of services to an individual at extreme medical risk. A determination of extreme medical risk shall be based upon medical evidence provided by an appropriately licensed medical professional.

111—11.8(216B) Termination of services.

11.8(1) A decision to terminate independent living rehabilitation services shall be made only with the full participation of the eligible individual or, as appropriate, the eligible individual's parent, guardian or other representative, unless the eligible individual has refused to participate, the eligible individual is no longer present in the state, or the eligible individual's whereabouts are unknown.

11.8(2) An eligible individual who is dissatisfied with the determination to terminate services may appeal the determination as provided in rule 111—11.9(216B).

111—11.9(216B) Dispute resolution process. This rule defines the procedures under which the dispute resolution process shall be conducted by the department.

11.9(1) Definitions.

"Administrative review" means a procedure by which the department may provide an opportunity for an applicant or eligible individual to express and seek remedy for dissatisfaction with a decision regarding the furnishing or denial of services.

"Formal hearing" means a procedure whereby an applicant or eligible individual who is dissatisfied with the findings of an administrative review or mediation concerning the furnishing or denial of services may request a timely review of those determinations before an impartial hearing officer.

While the department encourages the use of the administrative review process to resolve grievances, the administrative review process is not to be used as a means to delay mediation or a formal hearing before an impartial hearing officer unless the parties jointly agree to a delay. An applicant or eligible individual may elect to proceed directly either to mediation or to the formal hearing process. The department will not suspend, reduce, or terminate independent living rehabilitation services to any applicant or eligible individual throughout the administrative review, mediation or formal hearing process before a final agreement or decision is made, unless the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative so requests, or the department has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the applicant or eligible individual.

"Mediation" means an alternative which an applicant or eligible individual may choose if the applicant or eligible individual is dissatisfied with the findings of an administrative review concerning the furnishing or denial of services.

11.9(2) Administrative review. An applicant for, or eligible individual of, independent living rehabilitation services may request review of a decision regarding provision or denial of services with which the applicant or eligible individual is dissatisfied by submitting a letter to the program administrator of field operations.

a. The program administrator shall acknowledge receipt of the letter and arrangements shall be made for the administrative review to be held at a mutually convenient date, time and place which shall

be within ten days after receipt of the request for review. The applicant or eligible individual shall also be notified of the applicant's or eligible individual's right to obtain assistance through the Iowa client assistance program.

b. The administrative review shall consist of: review of the case file and any other documentation involved in the subject matter of the review; interviews with the service specialist for the blind and any others directly involved with the subject matter of the review; and an interview with the applicant or eligible individual or, as appropriate, a representative of the applicant or eligible individual.

c. The program administrator shall issue a written decision within five days of the review. The decision shall set forth the issue, principle, and relevant facts established during the review; pertinent provisions of law, administrative rule or department policy; and the reasoning upon which the decision is based. The letter transmitting the decision shall advise the applicant or eligible individual that the applicant or eligible individual shall inform the program administrator within seven days that either: (1) the applicant or eligible individual accepts the decision; or (2) the applicant or eligible individual does not accept the decision and wishes to proceed either to mediation or to a formal hearing.

d. A record of the decision and any action resulting from the decision shall be sent to the applicant or eligible individual by mail. The decision and a record of any action resulting from the decision shall be entered into the case file.

11.9(3) Mediation. An applicant or eligible individual who is dissatisfied with the findings of an administrative review or has elected to bypass the administrative review process may request mediation by submitting a letter to the program administrator. This letter must be received within seven days of the date of determination of the administrative review, if an administrative review has been conducted.

a. The program administrator shall acknowledge receipt of the request for mediation and shall make arrangements for mediation to occur within 30 days of the request to initiate the dispute resolution process. The date, time, and place shall be mutually agreeable to all parties. The applicant or eligible individual shall be notified in writing of the right to submit evidence or information to support the applicant's or eligible individual's position and to obtain representation to be present during the mediation sessions. The applicant or eligible individual shall also be notified of the applicant's or eligible individual's right to obtain assistance through the Iowa client assistance program. All mediation sessions shall be held in a timely manner and shall be concluded within 45 days of the date that the applicant or eligible individual initiated the dispute resolution process, unless an extension of this time is agreed upon by all parties. The department will pay costs for the mediator and, when appropriate, transportation, meals and lodging expenses for the applicant or eligible individual which are directly associated with the mediation process. The program administrator will determine who will represent the department during mediation sessions.

b. The department will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation and independent living rehabilitation services.

c. A mediator will be selected at random or by agreement of the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from the list described in paragraph 11.9(3) "b."

d. Discussions which occur during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding.

e. All agreements reached by the parties to the dispute and the mediation process shall be set forth in a written mediation agreement. This agreement shall be prepared by the mediator and mailed within seven days to all parties.

f. Either party to the dispute may request a formal hearing. This request must be in writing and must be submitted to the director within seven days of the date of the written mediation agreement.

11.9(4) Formal hearing. An applicant or eligible individual who is dissatisfied with any determinations made concerning the furnishing or denial of independent living rehabilitation services or the findings of an administrative review or mediation if an administrative review or mediation took place may request a formal hearing by submitting a letter to the director.

a. The director shall acknowledge receipt of the request and make arrangements for a formal hearing to be held within 60 days of the request of the applicant or eligible individual to initiate the dispute resolution process at a date, time and place mutually agreeable to both parties. The applicant or eligible individual shall be notified of the right to have a representative present at the formal hearing and to seek assistance through the Iowa client assistance program. Reasonable time extensions shall be granted for good cause shown at the request of a party or at the request of both parties.

b. The impartial hearing officer shall be an individual who is not an employee of a public agency other than an administrative law judge, hearing examiner, or employee of an institution of higher education. (An individual is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer.) The impartial hearing officer (1) is not a member of the commission for the blind; (2) has not been involved in previous decisions regarding the independent living rehabilitation services of the applicant or eligible individual; (3) has knowledge of the delivery of independent living rehabilitation services, the state plan, and the federal regulations and state rules governing the provision of services; (4) has received training with respect to the performance of official duties; and (5) has no personal, professional, or financial interest that would be in conflict with the hearing officer's objectivity. The director may also request that other designated department personnel be present at the formal hearing. At the request of the applicant or eligible individual, a representative of the applicant or eligible individual and a representative of the Iowa client assistance program may also be present. Any of these persons shall have the opportunity to present relevant evidence.

c. An impartial hearing officer must be selected on a random basis or by agreement between the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from a pool of persons qualified to be an impartial hearing officer.

d. The impartial hearing officer shall inform those present of the confidentiality of matters discussed. The proceedings shall be recorded.

e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the transcript of the hearing upon written request to the director.

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan for independent living, the federal Rehabilitation Act, and state rules and policies.

f. The decision of the impartial hearing officer is final.

11.9(5) Documents provided. Transcripts, notices, responses and other documents which are an integral part of the dispute resolution process shall be provided to involved parties in standard print format. An applicant or eligible individual, or representative of an applicant or eligible individual, or other involved party, may request provision of documents in alternative media. Documents in alternative media shall be provided in a timely manner.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—11.10(216B) Applicant's and eligible individual's rights. The service specialist for the blind must inform the applicant or eligible individual of the applicant's or eligible individual's rights as follows:

11.10(1) Written information on the Iowa client assistance program and on the department's policies and practices with regard to administrative review, fair hearing, confidentiality of records and nondiscrimination shall be provided to the applicant as a part of the application process. This information shall also be made available in the applicant's media of choice. Language interpreters will be used as necessary.

11.10(2) When an applicant is determined ineligible to receive independent living rehabilitation services, the applicant shall receive written notification of the right to appeal and information concerning services available through the Iowa client assistance program.

11.10(3) The independent living rehabilitation plan will include information in the eligible individual's media of choice on the department's policies regarding administrative review, fair hearing, confidentiality of records and nondiscrimination. Language interpreters will be used as necessary.

11.10(4) Upon termination of a case due to ineligibility, the individual shall be given information in the individual's media of choice on the right to appeal the termination, including information about services available through the Iowa client assistance program. Language interpreters will be used as necessary.

11.10(5) When disagreement occurs, staff shall verbally inform the applicant or individual of the right to appeal and provide information about services available through the Iowa client assistance program.

111—11.11(216B) Forms. The following forms are used by the independent living rehabilitation services program:

1. Application for Independent Living Rehabilitation Services—used for application for independent living rehabilitation services from the department.

2. Independent Living Rehabilitation Plan (ILRP) used to develop a blind person's program for rehabilitation by providing for mutual development of goals, objectives, a summary of planned services, criteria for review and evaluation and a time frame for completion of services.

3. Waiver of Independent Living Rehabilitation Plan—a signed statement acknowledging the eligible individual's choice to waive an ILRP and instead simply list the eligible individual's independent living objectives.

These rules are intended to implement Iowa Code chapter 216B.

[Filed 12/23/87, Notice 10/21/87—published 1/13/88, effective 2/17/88]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed emergency 9/2/88—published 9/21/88, effective 9/2/88]

[Filed 2/1/90, Notice 11/15/89—published 2/21/90, effective 3/28/90]

[Filed 6/27/97, Notice 5/7/97—published 7/16/97, effective 8/20/97]

[Filed 6/5/02, Notice 5/1/02—published 6/26/02, effective 7/31/02]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 13
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
[Prior to 9/21/88, see Blind, Division for the[423] Ch 13]

111—13.1(17A,22) Definitions. As used in this chapter:

“*Agency*” in these rules means the department for the blind.

“*Authorization for release of information*” means the form prescribed by the agency for the purpose of authorizing the release of a confidential record, signed and dated by the person empowered to release the information.

“*Case record*” means the file of personally identifiable or confidential information on a client, collected pursuant to the provisions of the Rehabilitation Act of 1973.

“*Client*” means an individual who is applying for or who has applied for, or who is receiving or has received, benefits or services under any agency program.

“*Confidential record*” in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” in these rules means the agency, or a person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22.

“*Open record*” in these rules means a record other than a confidential record.

“*Personally identifiable information*” in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” in these rules means the whole or part of a “public record,” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

“*Record system*” in these rules means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

111—13.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

111—13.3(17A,22) Requests for access to records.

13.3(1) Location of record. A request for access to a record should be directed to the director of the department for the blind or the particular agency office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

13.3(2) Office hours. Open records shall be made available during all customary office hours, which are between 8 a.m. and 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

13.3(3) Request for access. Requests for access to open records may be made in writing, in person, by electronic mail, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and phone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

13.3(4) *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code section 22.8(4) or 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 111—13.4(17A,22) and other applicable provisions of law.

13.3(5) *Security of record.* No person shall, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

13.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

13.3(7) *Fees.*

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or part of the estimated fee.

(2) When a requester has previously failed to pay a fee charged under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from the requester.

e. A client shall not be charged a search and supervisory fee nor a copying fee for access to the client's own case record.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—13.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 111—13.3(17A,22).

13.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

13.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

13.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of the record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable, and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

13.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a.* The name and title or position of the custodian responsible for the denial; and
- b.* A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

13.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

111—13.5(17A,22) *Requests for treatment of a record as a confidential record and its withholding from examination.* The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

13.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

13.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

13.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the agency from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

13.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

13.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

13.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

111—13.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian. The request to review a written statement must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

111—13.7(17A,22) Authorization for release of information by the subject of a confidential record. The subject of a confidential record may consent to agency disclosure to a third party of that portion of a record concerning the subject by completing an "Authorization for release of information" form. The consent must identify the record or records that may be disclosed; the person, or class of persons, to whom the record or records may be disclosed; and, if applicable, the time period during which the record may be disclosed. The agency may require the subject of the record and the person to whom the record is to be disclosed to provide proof of identity.

111—13.8(17A,22) Notice to suppliers of information. When the agency requests provision of information by a client or any other person, the agency shall inform the person of the following:

1. The authority under which the information is collected;
2. The principal purposes for which the information will be used or released;
3. What persons outside the agency might routinely have access to the information;
4. Which parts of the requested information are required and which are optional, and the consequences of failing to provide the information requested; and

5. The situations in which completing an “Authorization for release of information” form is or is not required before releasing information.

13.8(1) Persons who are unable to communicate in English or who rely on special modes of communication shall be provided explanations through methods they can understand.

13.8(2) This information shall be provided to each client for agency services as a part of the application process.

111—13.9(17A,22) Disclosures without the consent of the subject. Open records are routinely disclosed without the consent of the subject. To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Lawful disclosure will generally occur without notice:

1. For routine use as defined in rule 111—13.10(17A,22) or in the notice for a particular record system;

2. To a recipient who has provided the agency with advance written assurance that the record will be used solely for statistical purposes in an audit or evaluation, or in research which is directly connected with the administration of the agency’s programs; provided that the record is used only for the purposes provided; is released only to individuals officially connected with the audit, evaluation or research; is not released to the subject of the record; is managed in a manner which safeguards confidentiality; and does not appear in a final product in a form which would reveal personally identifiable information;

3. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of the government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought;

4. When necessary to protect the subject of the record or others when the subject poses a threat to safety;

5. To the legislative services agency under Iowa Code section 2A.3;

6. In the course of employee disciplinary proceedings; or

7. In response to a court order or subpoena.

111—13.10(17A,22) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statutes other than the public records law, Iowa Code chapter 22.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to commissioners or staff members who have a need for the record in the performance of their duties. The custodian of the record may upon request of any commissioner or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use a confidential record;

2. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order;

3. Disclosure to the department of inspections and appeals, or to other impartial hearing officers appointed by the director pursuant to these rules, for matters in which services or functions are being performed on behalf of the agency;

4. Transfers of information within the agency, to other state or federal agencies, or to local units of government as appropriate to administer the program for which the information is collected;

5. Release of information to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully; or

6. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

111—13.11(17A,22) Consensual disclosure of confidential records.

13.11(1) The subject of a record may complete the agency Authorization for Release of Information form, consenting in writing to agency disclosure of confidential records as provided in rule 111—13.7(17A,22).

13.11(2) Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

13.11(3) Obtaining information from a third party. In order to obtain medical or psychological records or other information needed to determine program eligibility or to provide services, the agency may be required to make requests for information to third parties which may involve the release of personally identifiable and confidential information about the subject of a record. Except as provided in rule 111—13.9(17A,22), the agency may do so only when an Authorization for Release of Information form has been properly executed by the subject of the record.

111—13.12(17A,22) Release to subject. The subject of a confidential record, or the representative of the subject of a confidential record, may file a written request to review confidential records about that person. The agency shall make all information in the case record accessible to the subject or the subject's representative in a timely manner, except:

1. The identity of a person providing information to the agency when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18);
2. The work product of an attorney; and
3. Investigative reports of peace officers, except as required pursuant to Iowa Code section 22.7(5).

13.12(1) Medical or psychological information which the staff believes may be harmful to the subject of a case record shall not be released directly to the individual, but must be provided through a representative, a physician, psychiatrist, or a certified substance abuse counselor, as appropriate.

13.12(2) If a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

111—13.13(17A,22) Availability of records.

13.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

13.13(2) Confidential records. The following records, categorized by agency program area, shall be held confidential. The statutory authority for confidentiality of each record system is given.

<u>Records</u>	<u>Statutory Authority</u>
ADMINISTRATION	
Central blind registry (c)	Iowa Code section 259.1
Client financial documents	Iowa Code section 259.1
Employment applications	Iowa Code section 22.7(11)
Minutes, closed meetings, commission for the blind	Iowa Code section 21.5(4)
Performance evaluations	Iowa Code section 19A.15
Personnel records	Iowa Code section 19A.15

Personnel attendance records	Iowa Code section 19A.15
Portions of agency staff manuals or indexed general statements of policy when disclosure of the information would: (1) enable law violators to avoid detection; (2) facilitate disregard of requirements imposed by law; or (3) give a clearly improper advantage to persons who are in an adverse position to the agency	Iowa Code sections 17A.2 and 17A.3
Unemployment claims	Iowa Code section 19A.15

ADULT ORIENTATION AND ADJUSTMENT CENTER

Orientation center student information	Iowa Code section 259.1
Orientation center student list	Iowa Code section 259.1
Orientation center student/alumni data base (c)	Iowa Code section 259.1

BUSINESS ENTERPRISE PROGRAM

Closing vendor inventories	Iowa Code section 259.1
Individual operator management training records	Iowa Code section 259.1
Operator assignment selection records	Iowa Code section 259.1
Vendor equipment inventories	Iowa Code section 259.1
Vendor financial information	Iowa Code section 259.1

INDEPENDENT LIVING REHABILITATION SERVICES

Case records	Iowa Code section 259.1
Client case number book	Iowa Code section 259.1
Client closure book	Iowa Code section 259.1
Client contact itineraries	Iowa Code section 259.1
Client master list	Iowa Code section 259.1
Client satisfaction survey	Iowa Code section 259.1

Library field contact report	Iowa 259.1	Code	section
Field operations staff reports	Iowa 259.1	Code	section

LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED

American college testing service test materials	Iowa 22.7(19)	Code	section
American printing house for the blind availability inquiries	Iowa 22.7(13)	Code	section
Applications for library service	Iowa 259.1	Code	section
Book order records	Iowa 22.7(13)	Code	section
Book transcription completion records	Iowa 22.7(13)	Code	section
Braille thermoform request records	Iowa 22.7(13)	Code	section
Circulation records	Iowa 22.7(13)	Code	section
CMLS microfiche and printout book of library patron records	Iowa 22.7(13)	Code	section
EI cassette machine pilot project user listing	Iowa 22.7(13)	Code	section
Hand-thermoformed braille library patron list	Iowa 22.7(13)	Code	section
Instructional materials center purchase orders	Iowa 22.7(13)	Code	section
Interlibrary library patron loan records	Iowa 22.7(13)	Code	section
Iowa basic skills test materials	Iowa 22.7(19)	Code	section
Iowa federation of women's clubs library patron request records	Iowa 22.7(13)	Code	section
Iowa Lions bible distribution list	Iowa 22.7(13)	Code	section
Library patron correspondence	Iowa 22.7(13)	Code	section
Library patron equipment inventory	Iowa 22.7(13)	Code	section
Library patron orders, monthly reports	Iowa 22.7(13)	Code	section
Library patron braille requests and production records	Iowa 22.7(13)	Code	section
Library patron braille request exchange list	Iowa 22.7(13)	Code	section

New library patron listing	Iowa Code section 22.7(13)
NLS subscription transaction records	Iowa Code section 22.7(13)
NLS updates on library patron service changes	Iowa Code section 22.7(13)
Out-of-state library patron duplication records	Iowa Code section 22.7(13)
Pioneer service reports	Iowa Code section 22.7(13)
Recording for the blind circulation records	Iowa Code section 22.7(13)
Tape purchase correspondence	Iowa Code section 22.7(13)
Textbook tracking materials	Iowa Code section 22.7(13)

VOCATIONAL REHABILITATION SERVICES

Annual SGA closure list	Iowa Code section 259.1
Case records	Iowa Code section 259.1
Certification letters	Iowa Code section 259.1
Claim and verification requests	Iowa Code section 259.1
Client contact itineraries	Iowa Code section 259.1
Client master list	Iowa Code section 259.1
Client orientation schedule list	Iowa Code section 259.1
Client satisfaction survey	Iowa Code section 259.1
Department of personnel braille typing tests	Iowa Code section 19A.15
Monthly field operations staff reports	Iowa Code section 259.1
SSA responses to claim & verification requests	Iowa Code section 259.1

NOTE: (c) indicates information is also stored on a computer database.

13.13(3) *Personally identifiable information.* This subrule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems defined in rule 111—13.1(17A,22). For each record system,

this subrule describes the legal authority for the collection of information. These record systems, categorized by agency program area, are:

<u>Records</u>	<u>Legal Authority for Collection</u>		
ADMINISTRATION			
Accounts payable vouchers	Iowa 259.1	Code	section
Central blind registry (c)	Iowa 259.1	Code	section
Client financial documents	Iowa 259.1	Code	section
Employment applications	Iowa 19A.15	Code	section
Performance evaluations	Iowa 19A.15	Code	section
Personnel records	Iowa 19A.15	Code	section
Personnel attendance records	Iowa 19A.15	Code	section
Unemployment claims	Iowa 19A.15	Code	section
ADULT ORIENTATION AND ADJUSTMENT CENTER			
Orientation center student information	Iowa 259.1	Code	section
Orientation center student list	Iowa 259.1	Code	section
Orientation center student/alumni database (c)	Iowa 259.1	Code	section
BUSINESS ENTERPRISE PROGRAM			
Closing vendor inventories	Iowa 259.1	Code	section
Individual operator management training records	Iowa 259.1	Code	section
Operator assignment selection records	Iowa 259.1	Code	section
Vendor equipment inventories	Iowa 259.1	Code	section
Vendor financial information	Iowa 259.1	Code	section

INDEPENDENT LIVING REHABILITATION SERVICES

Case records	Iowa 259.1	Code	section
Client case number book	Iowa 259.1	Code	section
Client closure book	Iowa 259.1	Code	section
Client contact itineraries	Iowa 259.1	Code	section
Client equipment inventory cards	Iowa 259.1	Code	section
Library field contact report	Iowa 259.1	Code	section
Field operations monthly reports	Iowa 259.1	Code	section

LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED

American printing house for the blind library patron availability inquiries	Iowa 216B.3	Code	section
Applications for library service	Iowa 216B.3	Code	section
Book order records	Iowa 216B.3	Code	section
Book transcription completion records	Iowa 22.7(13)	Code	section
Braille thermoform request records	Iowa 22.7(13)	Code	section
Circulation records	Iowa 216B.3	Code	section
CMLS microfiche and printout book of library patron records	Iowa 216B.3	Code	section
EI cassette machine pilot project user listing	Iowa 216B.3	Code	section
Hand-thermoformed braille library patron list	Iowa 216B.3	Code	section
Instructional materials center purchase orders	Iowa 216B.3	Code	section
Interlibrary library patron loan records	Iowa 216B.3	Code	section
Iowa federation of women's clubs library patron request tracking	Iowa 216B.3	Code	section
Iowa Lions bible distribution list	Iowa 216B.3	Code	section
Library patron correspondence	Iowa 216B.3	Code	section

Library patron equipment inventory	Iowa 216B.3	Code	section
Library patron orders, monthly reports	Iowa 216B.3	Code	section
Library patron braille requests and production records	Iowa 216B.3	Code	section
Library patron braille request exchange list	Iowa 216B.3	Code	section
New library patron listing	Iowa 216B.3	Code	section
NLS subscription transaction records	Iowa 216B.3	Code	section
NLS updates on library patron service changes	Iowa 216B.3	Code	section
Out-of-state library patron duplication records	Iowa 216B.3	Code	section
Pioneer service reports	Iowa 216B.3	Code	section
Recording for the blind circulation records	Iowa 216B.3	Code	section
Tape purchase correspondence	Iowa 216B.3	Code	section
Textbook tracking materials	Iowa 216B.3	Code	section

VOCATIONAL REHABILITATION SERVICES

Annual SGA closure list	Iowa 259.1	Code	section
Case records	Iowa 259.1	Code	section
Certification letters	Iowa 259.1	Code	section
Claim & verification requests	Iowa 259.1	Code	section
Client contact itineraries	Iowa 259.1	Code	section
Client orientation schedule list	Iowa 259.1	Code	section
SSA responses to claim & verification requests	Iowa 259.1	Code	section

NOTE: (c) indicates information is also stored on a computer database.

13.13(4) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law. These record systems, categorized by agency program area, are routinely

available to the public. They do not generally contain personally identifiable information or confidential information.

Records

ADMINISTRATION

Acknowledgments of gifts and bequests contributions
Administrative rules, public docket and rule-making records
Advisory boards, commissions, associations, committees and task forces: correspondence, minutes and general information
Aids and appliances, accounts receivable
Annual reports
Building blueprints
Building equipment reference manuals and data
Cooperative agreements
CSAVR, correspondence and general information
Dept. of education, correspondence, fiscal records and general information
Dept. of personnel procedures manual
Employee assistance fund information
Employee handbook
Equipment maintenance agreements
Executive calendar, current and past
Federal financial reports
Federal funds request authorizations
Federal government agencies, correspondence and reports
Film and videotape information
Fire evacuation procedures
Fiscal information on special projects
Forms, indexed
General complaints and criticisms from the public
General letters of appreciation from the public
General requests and inquiries from the public
General statements of agency policy, indexed
Gift law, general information
Iowa head injury committee
Iowa management training system, general information
Job opening announcements
Legislators, listing
Legislative correspondence and general information
Mailing lists
Maintenance work orders (c)
Membership, payment approvals
Minutes, Iowa commission for the blind
Monthly financial reports, dept. of revenue
National council of state agencies for the blind, correspondence and general information
New staff seminar schedules and evaluations
Out-of-state travel authorization requests and approvals
Personnel classifications, job descriptions and pay schedules
Personnel instructional pamphlets
Photographs and resumes, administrator and commission members
Pool/gym agreements
Position description questionnaires

Press releases and news clippings
Private organizations, correspondence and general information
Product safety chemical data sheets
Professional and technical associations, correspondence and general information
Public records docket
Publications
Rehabilitation administrative management program, general information and correspondence
Rehabnet, general information and memos
Rental and lease agreements
Sixtieth anniversary, general information
Staff service certificates
State government agencies, correspondence and reports
State vehicle dispatcher monthly reports
Statements of grant awards
Studies, surveys and proposals
28E agreements
Utility consumption and cost data (c)

BUSINESS ENTERPRISE PROGRAM

Blueprints and equipment layouts
Randolph-Sheppard Act
State plan, Randolph-Sheppard Act
Vendor forms

INDEPENDENT LIVING REHABILITATION SERVICES

CSAVR independent living committee
Deaf-blind register
Grant applications and instructional memos
Independent living advisory committee, general information and minutes
Independent living forms
Independent living procedure memos and schedules
In-service training grant, application and agendas
Part C announcements and reference materials
RCEP training advisory committee, general information and correspondence
Reference materials on alternative techniques
RSA 704 report
RSA 70B report
Special project grant, 1983
State plan for independent living services
Statewide independent living council, general information and minutes
Title VII, part b grant, reports and correspondence

LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED

Acquisition of bibles, general information
American printing house for the blind federal quota orders
American federation for the blind directory of agencies
APH central automated resource list
Application transfer technique study
Bibliographies, by subject

Bindery tracking records
Book inspection survey
Books proofread for sale, listing
Braille alphabet cards
Braille instruction manuals and sign booklets
Brochures from other libraries for the blind
Card catalog microfilming information
Card catalog uniform entries authority
Card file of print books about blindness
Card file of cassettes processed
Cassette books, number assignment record
Catalog production and master records
Censorship, general information
Circulation, general information
Comprehensive mailing list system (CMLS), general information
Computer installation information
Computer software and software manuals
Copyright clearance records
Deaf-blindness, general information
Diebold repairs, general information
Disabilities, general information
Duplicators, general information
EI cassette instructional video
Eligibility, general information
Equal employment opportunity, general information
Equipment manuals
Forms, inventory and masters (c)
Free matter for the blind and physically handicapped, general information
General library statistics
Guidelines for tapists
Health care facilities in Iowa, listing
Historical collection of uncataloged examples of tactile systems
Instructional materials center, general information
Intention and completion forms for the American printing house for the blind
Iowa computer-assisted network advisory board minutes, 1985
Iowa federated women's clubs, listing
Iowa library directory
Iowa libraries: a time to grow 1985-90 (program planning guide)
Iowa Lions foundation
Large-type format, general information
Lead worker, general information
Library automation report, 1983
Library consumer advisory committee minutes and general information
Library grants
Library materials invoices
Library staff procedures manuals
Logs, various department systems
Machines, general information
Magazine inventory
Magazine transaction merge procedures
Magazines, reference materials on selection, transcription and subscription
Mailing lists

Marantz, general repair information
Modems, general information
Monthly reports on nonusers of library service
National braille association bulletins
NLS availability listings
NLS automation reports
NLS, general correspondence and information
NLS removal authorization documentation
Nonborrower purchase orders
OCR scanners, general information
Postal service, general information
Publication catalogs
Publishers, listing
Radio reading for the blind, production information
Reader enrollment and delivery systems (READS), general information
Records management listing of library records
Request for proposal for local area network
Salvaging rigid talking book discs, instruction manual
Shelving, general information
Snowbirds, general information
Space utilization report
Speech/braille computer output, general information
Titles received, book listing
Training grant, general information
Transcriber's workshop, documentation and information
Vendor listing
World book encyclopedia, informational material
XESS, listing of books removed from the collection

NOTE: In addition to the above records, a complete inventory of all materials available for circulation is maintained in the library's card catalog.

VOCATIONAL REHABILITATION

Available readers and drivers listing
Dept. of personnel, certified disabilities program
Commissioner policies on service provision
Computer technology reference materials
Counselor instructional manual
Field operations statistical reports
504 subcommittee meeting records
General resource materials on employment and vocational rehabilitation
Health resources and information
Information on U.S. civil service and personnel management
In-service training agendas
In-service training grant
Job openings posting book
Medical reference pamphlets and brochures
Paratransit advisory committee reference materials
Photographs
RCEP training advisory committee reference listing
Reference materials on Targeted jobs tax credit, Job training partnership Act and PWI programs

Rehabilitation Act of 1973

Rehabilitation services administration annual report on postemployment services and annual reviews

Rehabilitation services administration federal regulations

Rehabilitation services administration monthly cumulative caseload report

Rehabilitation services administration quarterly cumulative caseload report

Rehabilitation services administration program and cost report

Social security disability and SSI reference materials

Speeches by Kenneth Jernigan and Jacob tenBroek

SSA administrative procedure letters

SSA program instructions and resource materials

Staff procedure memos

Staff territory assignments

State facilities plan

State plan for vocational rehabilitation services

Supported employment reference materials

Telephone directories for DVRS and AEA personnel

Transition committee minutes and reference materials

Veterans administration resource materials

Vocational rehabilitation guidelines and procedures

NOTE: (c) indicates information is also stored on a computer database.

The following record systems, categorized by agency program area, are open to access by the public, but may contain personally identifiable or confidential information:

RecordsStatutory Authority

ADMINISTRATION

Accounts payable vouchers

Iowa Code section
259.1

Accounting interagency correspondence and information

Iowa Code sections
259.1 and 19A.15

Applications for education leave and educational assistance

Iowa Code section
19A.15

Correspondence, general

Iowa Code section
259.1

Gifts and bequests trust account records

Iowa Code section
216B.3

Minutes, supervisors meetings

Iowa Code section
259.1

BUSINESS ENTERPRISE PROGRAM

Closed vending facilities

Iowa Code section
259.1

Correspondence, general

Iowa Code section
259.1

Correspondence, vendor	Iowa 259.1	Code	section
Licenses	Iowa 259.1	Code	section
Minutes, state vendor committee	Iowa 259.1	Code	section
Vending facilities (all locations)	Iowa 259.1	Code	section

INDEPENDENT LIVING REHABILITATION SERVICES

Agency contact documentation	Iowa 259.1	Code	section
Bistate independent living center	Iowa 259.1	Code	section
Client equipment inventory cards	Iowa 259.1	Code	section
General correspondence, 1981-84	Iowa 259.1	Code	section
Helen Keller national center, grant, reports, and correspondence	Iowa 259.1	Code	section

LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED

Braillewriter equipment inventory	Iowa 216B.3	Code	section
Marantz equipment inventory and repair records	Iowa 216B.3	Code	section
Proofreader circulation assignments	Iowa 216B.3	Code	section
Tape exchange correspondence	Iowa 216B.3	Code	section
Volunteer braille and tape production records	Iowa 216B.3	Code	section

VOCATIONAL REHABILITATION

General correspondence	Iowa 259.1	Code	section
Intra-office and interoffice memos	Iowa 259.1	Code	section
Lions typewriter acquisition list	Iowa 259.1	Code	section

NOTE: (c) indicates information is also stored on a computer database.

111—13.14(17A,22) Automated data processing capabilities. All records are stored on paper and not in automated data processing systems unless otherwise noted. Data processing systems used by the agency do not permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system, unless specifically noted.

111—13.15(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier;
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22;
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency;
4. Apply to records of grantees which administer state-funded programs, nor to individual vendors licensed by the agency pursuant to the federal Randolph-Sheppard Act; or
5. Make available to the public, records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code chapters 17A and 22.

[Filed 4/19/88, Notice 2/10/88—published 5/4/88, effective 6/8/88]

[Filed emergency 9/1/88—published 9/21/88, effective 9/1/88]

[Filed 2/1/90, Notice 11/15/89—published 2/21/90, effective 3/28/90]

[Filed 1/18/91, Notice 11/28/90—published 2/6/91, effective 3/13/91]

[Filed 6/5/02, Notice 5/1/02—published 6/26/02, effective 7/31/02]

[Filed ARC 0461C (Notice ARC 0181C, IAB 6/27/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 8 PROFESSIONAL CONDUCT OF LICENSEES

[Prior to 11/14/01, see 193C—Chapter 4]

193C—8.1(542B) General statement. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following code of professional conduct shall be binding upon every person holding a certificate of licensure as a professional engineer or professional land surveyor in this state. The code of professional conduct is an exercise of the police power vested in the board by the Acts of the legislature.

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

193C—8.2(542B) Code of professional conduct. All persons licensed under Iowa Code chapter 542B are charged with having knowledge of the existence of this code of professional conduct and shall be expected to be familiar with its provisions, to understand them, and to abide by them. Such knowledge includes the understanding that the practices of engineering and land surveying are a privilege, as opposed to a right, and the licensee shall be forthright and candid in statements or written response to the board or its representatives on matters pertaining to professional conduct.

8.2(1) Responsibility to the public. Licensees shall conduct their professional practices in a manner that will protect life, health and property and enhance the public welfare. If their professional judgment is overruled under circumstances where safety, health and welfare of the public are endangered, they shall inform their employer or client of the possible consequences, notify such other proper authority as may be appropriate, and withdraw from further services on the project.

Licensees shall neither approve nor certify engineering or land surveying documents that may be harmful to the public health and welfare and that are not in conformity with accepted engineering or land surveying standards.

8.2(2) Competency for assignments. Licensees shall undertake to perform engineering or land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or professional land surveying involved. Licensees shall engage experts or advise that experts and specialists be engaged whenever the client's or employer's interests are best served by such service.

Licensees may accept an assignment on a project requiring education or experience outside their field of competence, but only to the extent that their services are restricted to those phases of the project in which they are qualified. All other phases of such projects shall be performed by qualified associates, consultants or employees.

8.2(3) Truth in reports and testimony. Licensees, when serving as expert or technical witnesses before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of their testimony. Under these circumstances, the licensee must disclose inadequate knowledge.

Licensees shall be objective and truthful in all professional reports, statements or testimony. All relevant and pertinent information shall be included in such reports, statements or testimony. Licensees shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.

8.2(4) Conflict of interest. The following guidelines regarding conflict of interest shall apply:

a. Licensees shall not issue statements, criticisms or arguments on engineering or land surveying matters connected with public policy which are influenced or paid for by an interested party, or parties, unless they have prefaced their comments by explicitly identifying themselves, by disclosing the identities of the party or parties on whose behalf they are speaking, and by revealing the existence of any pecuniary interest.

b. Licensees shall avoid all known conflicts of interest with their employers or clients and, when unforeseen conflicts arise, shall promptly inform their employers or clients of any business association, interest, or circumstances that could influence judgment or the quality of services.

c. Licensees shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

d. Licensees shall act in professional matters for each employer or client as faithful agents or trustees and maintain full confidentiality on all matters in which the welfare of the public is not endangered.

8.2(5) *Ethics.* Licensees shall conduct their business and professional practices of engineering and land surveying in an ethical manner. In addition to the provisions of this chapter, the board will consider, although not necessarily be bound by, the ethical standards that address public protection issues adopted by a recognized state or national engineering or land surveying organization such as the National Society of Professional Engineers and the National Society of Professional Surveyors.

8.2(6) *Unethical or illegal conduct.*

a. *Business practices.* The following guidelines regarding unethical or illegal business practices shall apply:

(1) Licensees shall not pay or offer to pay, either directly or indirectly, any commission, percentage, brokerage fee, political contribution, gift, or other consideration to secure work, except to a bona fide employee or bona fide, established commercial or marketing agency retained by them or to secure positions through employment agencies.

(2) Licensees, as employers, shall not engage in any discriminatory practice prohibited by law and shall, in the conduct of their business, employ personnel upon the basis of merit.

(3) Licensees shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(4) Licensees shall not solicit or accept an engineering or land surveying contract from a governmental body when a principal or officer of the licensee's organization serves as an elected, appointed, voting or nonvoting member of the same governmental body which is letting the contract. For purposes of this subparagraph, "governmental body" means a board, council, commission, or similar multimembered body.

(5) Licensees shall not associate with, or permit the use of their names or firms in a business venture by, any person or firm that they know, or have reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.

(6) Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, firms, joint ventures, or past accomplishments.

(7) When a licensee's organization or a principal, officer, other member, or employee of the licensee's organization has review authority over the engineering or land surveying projects performed by private contractors within the jurisdiction of a governmental body, the licensee shall not solicit or accept a private engineering or land surveying contract that falls under the review services performed for that governmental body. The purpose of this paragraph is to avoid a circumstance in which a licensee may be called upon to review on behalf of a governmental body the engineering or land surveying services performed by the licensee's own organization.

b. *Individual professional conduct.* The following guidelines regarding illegal or unethical individual professional conduct shall apply:

(1) Licensees shall not use association with nonengineers, corporations or partnerships as "cloaks" for unethical acts.

(2) Licensees shall not violate any local, state or federal criminal law in the conduct of professional practice.

(3) Licensees shall not violate licensure laws of any state or territory.

(4) Licensees shall not affix their signatures or seals to any plans, plats or documents dealing with subject matter in which those licensees lack competence, nor to any plan, plat or document not prepared under their direct personal direction and control.

(5) Licensees shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments.

c. Real property inspection reports.

(1) Licensees shall not represent themselves as licensed professional land surveyors or professional engineers on real property inspection reports (i.e., mortgage surveys).

(2) Licensees shall not place their firm names, logos, or title blocks on real property inspection reports (i.e., mortgage surveys).

[ARC 0362C, IAB 10/3/12, effective 11/7/12; ARC 0470C, IAB 11/28/12, effective 1/2/13]

193C—8.3(542B) Reporting of acts or omissions. Licensees shall report acts or omissions by a licensee that constitute negligence or carelessness. For the purposes of these rules, “negligence or carelessness” means demonstrating unreasonable lack of skill in the performance of engineering or land surveying services by failure of a licensee to maintain a reasonable standard of care in the licensee’s practice of engineering or land surveying. In the evaluation of reported acts or omissions, the board shall determine if the engineer or land surveyor has applied learning, skill and ability in a manner consistent with the standards of the professions ordinarily possessed and practiced in the same profession at the same time. Standards referred to in the immediately preceding sentence shall include any minimum standards adopted by this board and any standards adopted by recognized national or state engineering or land surveying organizations.

193C—8.4(542B) Standards of integrity.

1. Licensees shall answer all questions of a duly constituted investigative body of the state of Iowa concerning alleged violations by another person or firm.

2. When proven wrong, licensees shall admit and accept their own errors and shall not distort or alter the facts to justify their own decisions.

3. If licensees know or have reason to believe that another person or firm may be in violation of any Iowa law or rule regarding ethics or conduct of professional engineering or professional land surveying practice, those licensees shall present such information to the engineering and land surveying examining board in writing and shall cooperate with the board in furnishing further information or assistance required by the board.

4. Licensees shall not assist in the application of an individual they know is unqualified for licensure by reason of education, experience or character.

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

193C—8.5(542B) Engineering and land surveying services offered by business entities.

8.5(1) Purpose of rule. The purpose of this rule is to protect the public from misleading or deceptive advertising by business entities that hold themselves out to the public as providing professional engineering or professional land surveying services and to guard against the unlicensed practice of professional engineering or professional land surveying by persons who are not properly licensed to perform such services in the state of Iowa. This rule shall not be construed as restricting truthful advertising by business entities that appropriately place professional engineers or professional land surveyors in responsible charge of the professional services offered to and performed for the public.

8.5(2) Definitions. For purposes of this rule, the following definitions shall apply:

“*Business entity*” shall include corporations, partnerships, limited liability companies, persons using fictitious or assumed names, or any other form of entity which may conduct business.

“*In responsible charge*” means having direct control of and personal supervision over any professional land surveying work or work involving the practice of professional engineering. One or more persons, jointly or severally, may be in responsible charge. Indicia of being “in responsible charge” include:

1. Obtaining or setting the project or service parameters or criteria.
2. Dictating the manner and methods by which professional services are performed.

3. Establishing procedures for quality control and authority over professional services in a manner that ensures that the professional licensee is in control of the work and of all individuals performing the work under the licensee's supervision.

4. Spending sufficient time directly performing the work or directly supervising the work to ensure that the licensee is familiar with all significant details of the work.

5. Maintaining familiarity with the capabilities and methods of the persons performing professional services, and providing adequate training for all persons working under the licensee's direct supervision.

6. Sustaining readily accessible contact with all persons performing professional services by direct physical proximity, or as appropriate in the licensee's professional judgment, by frequent communication, in clear and complete verbal and visual form, of information about the work being performed.

7. Specifically pertaining to land surveying, reviewing all field evidence and making all final decisions concerning the placement of survey monuments and surveyed lines.

"Professional services" shall include professional engineering and professional land surveying services, as defined in Iowa Code sections 542B.2(5) and (8) and 542B.27, as applicable to the fact situation at issue.

8.5(3) General rule. Business entities offering professional services to the public must be owned, managed, or appropriately staffed by one or more professional engineers or professional land surveyors, as applicable, who are in responsible charge of all professional services offered and performed.

8.5(4) Appropriate staffing. The nature and extent of appropriate staffing by licensed professionals is necessarily a fact-based determination dependent on such factors as the nature and volume of professional services offered and performed, the risk of unlicensed practice, the impact of the professional services on the life, health and safety of the public and the public's property, and the representations made to the public. While the legal nature of the business entity's relationship (e.g., owner, manager, employee) with a licensed professional engineer or professional land surveyor is not necessarily determinative, licensed professionals must be in responsible charge of all professional services offered and performed.

8.5(5) Professional engineering or professional land surveying firms. Business entities holding themselves out to the public as professional engineering or professional land surveying firms cannot satisfy the requirements of this rule solely by retaining, through employment or contract, a licensed professional on an as-needed, occasional or consulting basis. Such an arrangement fosters unlicensed practice by the unlicensed owners or managers who place themselves in charge of determining when a licensed professional is needed. When a business entity conveys to the public that it is organized as a firm of licensed professionals, the public has a right to expect that the firm retains the full-time services of one or more licensed professionals. "Full-time" in this context is not measured by hours, but by a licensee's sustained, meaningful, and effective, direct supervision of all professional services performed, whether the firm performs services, for example, 20 hours per month or 80 hours per week.

8.5(6) Restricted services. Business entities that do not generally hold themselves out to the public as professional engineering or professional land surveying firms, but that do offer some type of professional engineering or professional land surveying service, shall be appropriately staffed by licensed professionals in a manner that (a) corresponds with the representations made to the public, (b) places licensed professionals in responsible charge of all professional services performed, and (c) guards against the unlicensed practice of professional engineering or professional land surveying.

8.5(7) Permitted practices.

a. Nothing in this rule is intended to prevent an individual or business entity from truthfully offering services as a project manager, administrator, or coordinator of a multidisciplinary project.

b. Nothing in this rule shall prevent a joint venture arrangement between an engineering or land surveying firm and a business entity that is not owned, managed, or staffed by professional engineers or professional land surveyors, in which the venturing entities jointly and truthfully offer professional engineering or professional land surveying services on a project-by-project basis. Licensed professional engineers and professional land surveyors who participate in such arrangements shall ensure that the

public is accurately informed as to the nature of all professional services to be performed and by whom the services will be performed.

8.5(8) Remedies against licensees. Licensed professional engineers or professional land surveyors who aid and abet the unlicensed offering or practice of professional engineering or professional land surveying, or who otherwise knowingly participate in a business entity that does not comply with this rule, are engaging in unethical practices that are harmful or detrimental to the public and are subject to disciplinary action by the board.

8.5(9) Remedies against business entities and unlicensed individuals. Pursuant to Iowa Code section 542B.27, the board may by order impose civil penalties against any business entity or unlicensed individual that offers or performs professional services in violation of Iowa Code chapter 542B. The board shall apply the guidelines set forth in this rule in determining whether a violation exists and in establishing an appropriate civil penalty. Civil penalties may not exceed \$1000 for each offense. Each day of a continued violation constitutes a separate offense. In addition to a civil penalty or as an alternative to such remedy, the board may seek an injunction in district court to prevent future violations by business entities or by licensed or unlicensed individuals.

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

These rules are intended to implement Iowa Code sections 542B.6, 542B.21 and 542B.26 and chapter 272C.

[Filed 12/8/78, Notice 8/9/78—published 12/27/78, effective 1/31/79]

[Filed 1/4/79, Notice 10/18/78—published 1/24/79, effective 2/28/79]

[Filed 7/20/79, Notice 4/18/79—published 8/8/79, effective 9/12/79]

[Filed 12/21/84, Notice 7/18/84—published 1/16/85, effective 2/20/85]

[Filed 9/5/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]

[Filed 5/13/88, Notice 3/9/88—published 6/1/88, effective 7/6/88]

[Filed 11/4/91, Notice 8/21/91—published 11/27/91, effective 1/1/92]

[Filed 9/24/93, Notice 8/18/93—published 10/13/93, effective 11/17/93]

[Filed 6/3/94, Notice 3/30/94—published 6/22/94, effective 7/27/94]

[Filed 11/4/94, Notice 6/22/94—published 11/23/94, effective 12/28/94]

[Filed 5/2/96, Notice 1/3/96—published 5/22/96, effective 6/26/96]

[Filed 3/6/97, Notice 11/20/96—published 3/26/97, effective 4/30/97]

[Filed 2/6/98, Notice 12/3/97—published 2/25/98, effective 4/1/98]

[Filed 10/1/98, Notice 8/12/98—published 10/21/98, effective 11/25/98]

[Filed 4/15/99, Notice 3/10/99—published 5/5/99, effective 6/9/99]

[Filed 7/23/99, Notice 6/16/99—published 8/11/99, effective 9/15/99]

[Filed 10/24/01, Notice 8/8/01—published 11/14/01, effective 1/1/02]

[Filed 5/31/06, Notice 3/15/06—published 6/21/06, effective 7/26/06]

[Filed ARC 0362C (Notice ARC 0156C, IAB 6/13/12), IAB 10/3/12, effective 11/7/12]

[Filed ARC 0470C (Notice ARC 0264C, IAB 8/8/12), IAB 11/28/12, effective 1/2/13]

EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.
Prior to 9/7/88, see Public Instruction Department[670]
(Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I

*GENERAL INFORMATION—
DEPARTMENT OPERATIONS*

CHAPTER 1

ORGANIZATION AND OPERATION

- 1.1(17A,256) State board of education
- 1.2(17A,256) Student member of state board of education
- 1.3(17A,256) Director of education
- 1.4(17A,256) Department of education

CHAPTER 2

AGENCY PROCEDURE FOR RULE MAKING
AND PETITIONS FOR RULE MAKING

(Uniform Rules)

- 2.1(17A) Applicability
- 2.2(17A) Advice on possible rules before notice of proposed rule adoption
- 2.3(17A) Public rule-making docket
- 2.4(17A) Notice of proposed rule making
- 2.5(17A) Public participation
- 2.6(17A) Regulatory analysis
- 2.7(17A,25B) Fiscal impact statement
- 2.8(17A) Time and manner of rule adoption
- 2.9(17A) Variance between adopted rule and published notice of proposed rule adoption
- 2.10(17A) Exemptions from public rule-making procedures
- 2.11(17A) Concise statement of reasons
- 2.12(17A) Contents, style, and form of rule
- 2.13(17A) Agency rule-making record
- 2.14(17A) Filing of rules
- 2.15(17A) Effectiveness of rules prior to publication
- 2.16(17A) General statements of policy
- 2.17(17A) Review by agency of rules
- 2.18(17A) Petition for rule making
- 2.19(17A) Inquiries

CHAPTER 3

DECLARATORY ORDERS

(Uniform Rules)

- 3.1(17A) Petition for declaratory order
- 3.2(17A) Notice of petition
- 3.3(17A) Intervention
- 3.4(17A) Briefs
- 3.5(17A) Inquiries
- 3.6(17A) Service and filing of petitions and other papers
- 3.7(17A) Consideration
- 3.8(17A) Action on petition
- 3.9(17A) Refusal to issue order
- 3.10(17A) Contents of declaratory order—effective date
- 3.11(17A) Copies of orders
- 3.12(17A) Effect of a declaratory order

CHAPTER 4 WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

4.1(17A,ExecOrd11)	Definitions
4.2(17A,ExecOrd11)	Scope of chapter
4.3(17A,ExecOrd11)	Applicability of chapter
4.4(17A,ExecOrd11)	Criteria for waiver
4.5(17A,ExecOrd11)	Filing of petition
4.6(17A,ExecOrd11)	Content of petition
4.7(17A,ExecOrd11)	Additional information
4.8(17A,ExecOrd 11)	Notice
4.9(17A,ExecOrd11)	Hearing procedures
4.10(17A,ExecOrd11)	Ruling
4.11(17A,ExecOrd11)	Public availability
4.12(17A,ExecOrd11)	Summary reports
4.13(17A,ExecOrd11)	Cancellation
4.14(17A,ExecOrd11)	Violations
4.15(17A,ExecOrd11)	Defense
4.16(17A,ExecOrd11)	Judicial review
4.17(17A,ExecOrd11)	Exception

CHAPTER 5 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES (Uniform Rules)

5.1(256)	Definitions
5.3(256)	Requests for access to records
5.6(256)	Procedure by which additions, dissents, or objections may be entered into certain records
5.9(256)	Disclosures without the consent of the subject
5.10(256)	Routine use
5.11(256)	Consensual disclosure of confidential records
5.12(256)	Release to a subject
5.13(256)	Availability of records
5.14(256)	Personally identifiable information
5.15(256)	Other groups of records
5.16(256)	Applicability

CHAPTER 6 APPEAL PROCEDURES

6.1(290)	Scope of appeal
6.2(256,290,17A)	Definitions
6.3(290,17A)	Manner of appeal
6.4(17A)	Continuances
6.5(17A)	Intervention
6.6(17A)	Motions
6.7(17A)	Disqualification
6.8(290)	Subpoena of witnesses and costs
6.9(17A)	Discovery
6.10(17A)	Consolidation—severance
6.11(17A)	Waiver of procedures
6.12(17A)	Appeal hearing
6.13	Reserved
6.14(17A)	Ex parte communication
6.15(17A)	Record

6.16(17A)	Recording costs
6.17(290,17A)	Decision and review
6.18(290)	Finality of decision
6.19(17A)	Default
6.20(17A)	Application for rehearing of final decision
6.21(17A)	Rehearing
6.22(17A)	Emergency adjudicative proceedings

CHAPTER 7 CRITERIA FOR GRANTS

7.1(256,17A)	Purpose
7.2(256,17A)	Definitions
7.3(256,17A)	Requirements
7.4(256,17A)	Review process
7.5(290,17A)	Appeal of grant denial or termination

CHAPTERS 8 to 10 Reserved

TITLE II *ACCREDITED SCHOOLS AND SCHOOL DISTRICTS*

CHAPTER 11 UNSAFE SCHOOL CHOICE OPTION

11.1(PL107-110)	Purpose
11.2(PL107-110)	Definitions
11.3(PL107-110)	Whole school option
11.4(PL107-110)	Individual student option
11.5(PL107-110)	District reporting

CHAPTER 12 GENERAL ACCREDITATION STANDARDS

DIVISION I GENERAL STANDARDS

12.1(256) General standards

DIVISION II DEFINITIONS

12.2(256) Definitions

DIVISION III ADMINISTRATION

12.3(256) Administration

DIVISION IV SCHOOL PERSONNEL

12.4(256) School personnel

DIVISION V EDUCATION PROGRAM

12.5(256) Education program

DIVISION VI ACTIVITY PROGRAM

12.6(256) Activity program

DIVISION VII STAFF DEVELOPMENT

12.7(256,284,284A) Professional development

DIVISION VIII ACCOUNTABILITY

12.8(256) Accountability for student achievement

DIVISION IX EXEMPTION REQUEST PROCESS

12.9(256) General accreditation standards exemption request

CHAPTERS 13 and 14

Reserved

CHAPTER 15 USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

15.1(256) Purpose
15.2(256) Definitions
15.3(256) Interactivity
15.4(256) Course eligibility
15.5(256) Teacher preparation and accessibility
15.6(256) School responsibilities

CHAPTER 16 STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

16.1(256C) Purpose
16.2(256C) Definitions
16.3(256C) Preschool program standards
16.4(256C) Collaboration requirements
16.5(256C) Applications for funding
16.6(256C) Application process
16.7(256C) Award contracts
16.8(256C) Contract termination

16.9(256C)	Criteria for applications for funding
16.10(256C)	Appeal of application denial or termination
16.11(256C)	Finance
16.12(256C)	Transportation
16.13(256C)	Accountability requirements
16.14(256C)	Monitoring
16.15(256C)	Open enrollment not applicable

CHAPTER 17 OPEN ENROLLMENT

17.1(282)	Intent and purpose
17.2(282)	Definitions
17.3(282)	Application process
17.4(282)	Filing after the March 1 deadline—good cause
17.5(282)	Filing after the March 1 deadline—harassment or serious health condition
17.6(282)	Restrictions to open enrollment requests
17.7(282)	Open enrollment for kindergarten
17.8(282)	Requirements applicable to parents/guardians and students
17.9(282)	Transportation
17.10(282)	Method of finance
17.11(282)	Special education students
17.12(282)	Laboratory school provisions
17.13(282)	Applicability
17.14(282)	Voluntary diversity plans or court-ordered desegregation plans

CHAPTER 18 SCHOOL FEES

18.1(256)	Policy
18.2(256)	Fee policy
18.3(256)	Eligibility for waiver, partial waiver or temporary waiver of student fees
18.4(256)	Fees covered
18.5(256)	Effective date

CHAPTERS 19 and 20 Reserved

TITLE III *COMMUNITY COLLEGES*

CHAPTER 21 COMMUNITY COLLEGES

DIVISION I APPROVAL STANDARDS

21.1(260C)	Definitions
21.2(260C)	Administration
21.3	Reserved
21.4(260C)	Curriculum and evaluation
21.5(260C)	Library or learning resource center
21.6(260C)	Student services
21.7(260C)	Laboratories, equipment and supplies
21.8(260C)	Physical plant
21.9(260C)	Nonreimbursable facilities
21.10 to 21.19	Reserved

DIVISION II
COMMUNITY COLLEGE ENERGY APPROPRIATIONS

21.20 to 21.29 Reserved

DIVISION III
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

21.30(321J) Purpose
21.31(321J) Course
21.32(321J) Tuition fee established
21.33(321J) Administrative fee established
21.34 Reserved

DIVISION IV
JOBS NOW CAPITALS ACCOUNT

21.35 to 21.44 Reserved

DIVISION V
STATE COMMUNITY COLLEGE FUNDING PLAN

21.45(260C) Purpose

DIVISION VI
INTERCOLLEGIATE ATHLETIC COMPETITION

21.46 to 21.56 Reserved

DIVISION VII
QUALITY INSTRUCTIONAL CENTER INITIATIVE

21.57 to 21.63 Reserved

DIVISION VIII
PROGRAM AND ADMINISTRATIVE SHARING INITIATIVE

21.64 to 21.71 Reserved

DIVISION IX
APPRENTICESHIP PROGRAM

21.72(260C) Purpose
21.73(260C) Definitions
21.74(260C) Apprenticeship programs

DIVISION X
MISCELLANEOUS PROVISIONS

21.75(260C,82GA,SF358) Used motor vehicle dealer education program

CHAPTER 22 SENIOR YEAR PLUS PROGRAM

DIVISION I
GENERAL PROVISIONS

22.1(261E) Scope
22.2(261E) Student eligibility
22.3(261E) Teacher eligibility, responsibilities
22.4(261E) Institutional eligibility, responsibilities
22.5 Reserved

DIVISION II
DEFINITIONS

22.6(261E) Definitions

DIVISION III
ADVANCED PLACEMENT PROGRAM

22.7(261E) School district obligations
22.8(261E) Obligations regarding registration for advanced placement examinations
22.9 and 22.10 Reserved

DIVISION IV
CONCURRENT ENROLLMENT PROGRAM

- 22.11(261E) Applicability
22.12 and 22.13 Reserved

DIVISION V
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

- 22.14(261E) Availability
22.15(261E) Notification
22.16(261E) Student eligibility
22.17(261E) Eligible postsecondary courses
22.18(261E) Application process
22.19(261E) Credits
22.20(261E) Transportation
22.21(261E) Tuition payments
22.22(261E) Tuition reimbursements and adjustments
22.23 Reserved

DIVISION VI
CAREER ACADEMIES

- 22.24(261E) Career academies
22.25 Reserved

DIVISION VII
REGIONAL ACADEMIES

- 22.26(261E) Regional academies
22.27(261E) Waivers for certain regional academies

DIVISION VIII
INTERNET-BASED AND ICN COURSEWORK

- 22.28(261E) Internet-based coursework
22.29(261E) ICN-based coursework

CHAPTER 23
ADULT EDUCATION

- 23.1(260C) Planning process
23.2(260C) Final plan

CHAPTER 24
COMMUNITY COLLEGE ACCREDITATION

- 24.1(260C) Purpose
24.2(260C) Scope
24.3(260C) Definitions
24.4(260C) Accreditation components and criteria—Higher Learning Commission
24.5(260C) Accreditation components and criteria—additional state standards
24.6(260C) Accreditation process

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM;
GAP TUITION ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

- 25.1(260H,260I) Scope
25.2(260H,260I) Definitions
25.3 to 25.10 Reserved

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

25.11(260H)	Purpose
25.12(260H)	Target populations
25.13(260H)	Eligibility criteria for projects
25.14(260H)	Program component requirements
25.15(260H)	Pipeline program
25.16(260H)	Career pathways and bridge curriculum development program
25.17 to 25.19	Reserved

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

25.20(260I)	Purpose
25.21(260I)	Applicants for tuition assistance—eligibility criteria
25.22(260I)	Applicants for tuition assistance—additional provisions
25.23(260I)	Eligible costs
25.24(260I)	Eligible certificate programs
25.25(260I)	Initial assessment
25.26(260I)	Program interview
25.27(260I)	Participation requirements
25.28(260I)	Oversight

TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTERS 26 to 30
Reserved

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31
COMPETENT PRIVATE INSTRUCTION AND DUAL ENROLLMENT

31.1(299,299A)	Purpose
31.2(299)	Reports as to competent private instruction
31.3(299,299A)	Duties of privately retained licensed practitioners
31.4(299,299A)	Duties of licensed practitioners, home school assistance program
31.5(299A)	School district duties related to competent private instruction
31.6(299A)	Dual enrollment
31.7(299)	Open enrollment
31.8(299A)	Baseline evaluation and annual assessment
31.9(299A)	Reporting assessment results
31.10(299A)	Special education students

CHAPTER 32
HIGH SCHOOL EQUIVALENCY DIPLOMA

32.1(259A)	Test
32.2(259A)	By whom administered
32.3(259A)	Minimum score
32.4(259A)	Date of test
32.5(259A)	Retest
32.6(259A)	Application fee
32.7(259A)	Diploma, transcript, verification fees

CHAPTER 33 EDUCATING THE HOMELESS

33.1(256)	Purpose
33.2(256)	Definitions
33.3(256)	Responsibilities of the board of directors
33.4(256)	School records; student transfers
33.5(256)	Immunization requirements
33.6(256)	Waiver of fees and charges encouraged
33.7(256)	Waiver of enrollment requirements encouraged; placement
33.8(256)	Residency of homeless child or youth
33.9(256)	Dispute resolution
33.10(256)	Transportation of homeless children and youth
33.11(256)	School services

CHAPTER 34 FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS OR MENTAL HEALTH INSTITUTES

34.1(218)	Scope
34.2(218)	Definitions
34.3(218)	General principles
34.4(218)	Notification
34.5(218)	Program submission and approval
34.6(218)	Budget submission and approval
34.7(218)	Payments
34.8(218)	Payments to the AEA
34.9(218)	Contracting for services
34.10(218)	Accounting for average daily attendance
34.11(218)	Accounting for actual program costs
34.12(218)	Audit
34.13(218)	Hold-harmless provision
34.14(218,256B,34CFR300)	AEA services
34.15(218,233A,261C)	Postsecondary credit courses

CHAPTER 35 Reserved

TITLE VI *INTERSCHOLASTIC COMPETITION*

CHAPTER 36 EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

36.1(280)	Definitions
36.2(280)	Registered organizations
36.3(280)	Filings by organizations
36.4(280)	Executive board
36.5(280)	Federation membership
36.6(280)	Salaries
36.7(280)	Expenses
36.8(280)	Financial report
36.9(280)	Bond
36.10(280)	Audit
36.11(280)	Examinations by auditors
36.12(280)	Access to records
36.13(280)	Appearance before state board

- 36.14(280) Interscholastic athletics
- 36.15(280) Eligibility requirements
- 36.16(280) Executive board review
- 36.17(280) Appeals to director
- 36.18(280) Organization policies
- 36.19(280) Eligibility in situations of district organization change
- 36.20(280) Cooperative student participation

CHAPTER 37

EXTRACURRICULAR ATHLETIC ACTIVITY CONFERENCE FOR MEMBER SCHOOLS

- 37.1(280) Policy and purpose
- 37.2(280) Initial responsibility
- 37.3(280) Complaint to the director, department of education
- 37.4(280) Mediation
- 37.5(280) Resolution or recommendation of the mediation team
- 37.6(280) Decision
- 37.7(280) Effective date of the decision

CHAPTERS 38 to 40

Reserved

TITLE VII

SPECIAL EDUCATION

CHAPTER 41

SPECIAL EDUCATION

DIVISION I

PURPOSE AND APPLICABILITY

- 41.1(256B,34CFR300) Purposes
- 41.2(256B,34CFR300) Applicability of this chapter

DIVISION II

DEFINITIONS

- 41.3(256B,34CFR300) Act
- 41.4(256B,273) Area education agency
- 41.5(256B,34CFR300) Assistive technology device
- 41.6(256B,34CFR300) Assistive technology service
- 41.7(256B,34CFR300) Charter school
- 41.8(256B,34CFR300) Child with a disability
- 41.9(256B,34CFR300) Consent
- 41.10(256B,34CFR300) Core academic subjects
- 41.11(256B,34CFR300) Day; business day; school day
- 41.12(256B,34CFR300) Educational service agency
- 41.13(256B,34CFR300) Elementary school
- 41.14(256B,34CFR300) Equipment
- 41.15(256B,34CFR300) Evaluation
- 41.16(256B,34CFR300) Excess costs
- 41.17(256B,34CFR300) Free appropriate public education
- 41.18(256B,34CFR300) Highly qualified special education teachers
- 41.19(256B,34CFR300) Homeless children
- 41.20(256B,34CFR300) Include
- 41.21(256B,34CFR300) Indian and Indian tribe
- 41.22(256B,34CFR300) Individualized education program

- 41.23(256B,34CFR300) Individualized education program team
- 41.24(256B,34CFR300) Individualized family service plan
- 41.25(256B,34CFR300) Infant or toddler with a disability
- 41.26(256B,34CFR300) Institution of higher education
- 41.27(256B,34CFR300) Limited English proficient
- 41.28(256B,34CFR300) Local educational agency
- 41.29(256B,34CFR300) Native language
- 41.30(256B,34CFR300) Parent
- 41.31(256B,34CFR300) Parent training and information center
- 41.32(256B,34CFR300) Personally identifiable
- 41.33(256B,34CFR300) Public agency; nonpublic agency; agency
- 41.34(256B,34CFR300) Related services
- 41.35(34CFR300) Scientifically based research
- 41.36(256B,34CFR300) Secondary school
- 41.37(34CFR300) Services plan
- 41.38(34CFR300) Secretary
- 41.39(256B,34CFR300) Special education
- 41.40(34CFR300) State
- 41.41(256B,34CFR300) State educational agency
- 41.42(256B,34CFR300) Supplementary aids and services
- 41.43(256B,34CFR300) Transition services
- 41.44(34CFR300) Universal design
- 41.45(256B,34CFR300) Ward of the state
- 41.46 to 41.49 Reserved
- 41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals
- 41.51(256B,34CFR300) Other definitions applicable to this chapter
- 41.52 to 41.99 Reserved

DIVISION III

RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

- 41.100(256B,34CFR300) Eligibility for assistance
- 41.101(256B,34CFR300) Free appropriate public education (FAPE)
- 41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages
- 41.103(256B,34CFR300) FAPE—methods and payments
- 41.104(256B,34CFR300) Residential placement
- 41.105(256B,34CFR300) Assistive technology
- 41.106(256B,34CFR300) Extended school year services
- 41.107(256B,34CFR300) Nonacademic services
- 41.108(256B,34CFR300) Physical education
- 41.109(256B,34CFR300) Full educational opportunity goal (FEOG)
- 41.110(256B,34CFR300) Program options
- 41.111(256B,34CFR300) Child find
- 41.112(256B,34CFR300) Individualized education programs (IEPs)
- 41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices
- 41.114(256B,34CFR300) Least restrictive environment (LRE)
- 41.115(256B,34CFR300) Continuum of alternative services and placements
- 41.116(256B,34CFR300) Placements
- 41.117(256B,34CFR300) Nonacademic settings
- 41.118(256B,34CFR300) Children in public or private institutions
- 41.119(256B,34CFR300) Technical assistance and training activities
- 41.120(256B,34CFR300) Monitoring activities
- 41.121(256B,34CFR300) Procedural safeguards

- 41.122(256B,34CFR300) Evaluation
- 41.123(256B,34CFR300) Confidentiality of personally identifiable information
- 41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs
- 41.125 to 41.128 Reserved
- 41.129(256B,34CFR300) Responsibility regarding children in private schools
- 41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities
- 41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities
- 41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement
- 41.133(256,256B,34CFR300) Expenditures
- 41.134(256,256B,34CFR300) Consultation
- 41.135(256,256B,34CFR300) Written affirmation
- 41.136(256,256B,34CFR300) Compliance
- 41.137(256,256B,34CFR300) Equitable services determined
- 41.138(256,256B,34CFR300) Equitable services provided
- 41.139(256,256B,34CFR300) Location of services and transportation
- 41.140(256,256B,34CFR300) Due process complaints and state complaints
- 41.141(256,256B,34CFR300) Requirement that funds not benefit a private school
- 41.142(256,256B,34CFR300) Use of personnel
- 41.143(256,256B,34CFR300) Separate classes prohibited
- 41.144(256,256B,34CFR300) Property, equipment, and supplies
- 41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) to 281—41.147(256B,34CFR300)
- 41.146(256B,34CFR300) Responsibility of department
- 41.147(256B,34CFR300) Implementation by department
- 41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue
- 41.149(256B,34CFR300) SEA responsibility for general supervision
- 41.150 Reserved
- 41.151(256B,34CFR300) Adoption of state complaint procedures
- 41.152(256B,34CFR300) Minimum state complaint procedures
- 41.153(256B,34CFR300) Filing a complaint
- 41.154(256B,34CFR300) Methods of ensuring services
- 41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility
- 41.156(256B,34CFR300) Personnel qualifications
- 41.157 to 41.161 Reserved
- 41.162(256B,34CFR300) Supplementation of state, local, and other federal funds
- 41.163(256B,34CFR300) Maintenance of state financial support
- 41.164 Reserved
- 41.165(256B,34CFR300) Public participation
- 41.166(256B,34CFR300) Rule of construction
- 41.167(256B,34CFR300) State advisory panel
- 41.168(256B,34CFR300) Advisory panel membership
- 41.169(256B,34CFR300) Advisory panel duties
- 41.170(256B,34CFR300) Suspension and expulsion rates
- 41.171 Reserved
- 41.172(256B,34CFR300) Access to instructional materials
- 41.173(256B,34CFR300) Overidentification and disproportionality
- 41.174(256B,34CFR300) Prohibition on mandatory medication
- 41.175 Reserved
- 41.176(256B) Special school provisions
- 41.177(256B) Facilities
- 41.178(256B) Materials, equipment and assistive technology

- 41.179 to 41.185 Reserved
- 41.186(256B,34CFR300) Assistance under other federal programs
- 41.187(256B) Research, innovation, and improvement
- 41.188 to 41.199 Reserved

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

- 41.200(256B,34CFR300) Condition of assistance
- 41.201(256B,34CFR300) Consistency with state policies
- 41.202(256B,34CFR300) Use of amounts
- 41.203(256B,34CFR300) Maintenance of effort
- 41.204(256B,34CFR300) Exception to maintenance of effort
- 41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years
- 41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA
- 41.207(256B,34CFR300) Personnel development
- 41.208(256B,34CFR300) Permissive use of funds
- 41.209(256B,34CFR300) Treatment of charter schools and their students
- 41.210(256B,34CFR300) Purchase of instructional materials
- 41.211(256B,34CFR300) Information for department
- 41.212(256B,34CFR300) Public information
- 41.213(256B,34CFR300) Records regarding migratory children with disabilities
- 41.214 to 41.219 Reserved
- 41.220(256B,34CFR300) Exception for prior local plans
- 41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility
- 41.222(256B,34CFR300) AEA or LEA and state agency compliance
- 41.223(256B,34CFR300) Joint establishment of eligibility
- 41.224(256B,34CFR300) Requirements for jointly establishing eligibility
- 41.225 Reserved
- 41.226(256B,34CFR300) Early intervening services
- 41.227 Reserved
- 41.228(256B,34CFR300) State agency eligibility
- 41.229(256B,34CFR300) Disciplinary information
- 41.230(256B,34CFR300) SEA flexibility
- 41.231 to 41.299 Reserved

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

- 41.300(256B,34CFR300) Parental consent and participation
- 41.301(256B,34CFR300) Full and individual initial evaluations
- 41.302(256B,34CFR300) Screening for instructional purposes is not evaluation
- 41.303(256B,34CFR300) Reevaluations
- 41.304(256B,34CFR300) Evaluation procedures
- 41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations
- 41.306(256B,34CFR300) Determination of eligibility
- 41.307(256B,34CFR300) Specific learning disabilities
- 41.308(256B,34CFR300) Additional group members
- 41.309(256B,34CFR300) Determining the existence of a specific learning disability
- 41.310(256B,34CFR300) Observation
- 41.311(256B,34CFR300) Specific documentation for the eligibility determination
- 41.312(256B,34CFR300) General education interventions
- 41.313(256B,34CFR300) Systematic problem-solving process
- 41.314(256B,34CFR300) Progress monitoring and data collection
- 41.315 to 41.319 Reserved
- 41.320(256B,34CFR300) Definition of individualized education program

- 41.321(256B,34CFR300) IEP team
- 41.322(256B,34CFR300) Parent participation
- 41.323(256B,34CFR300) When IEPs must be in effect
- 41.324(256B,34CFR300) Development, review, and revision of IEP
- 41.325(256B,34CFR300) Private school placements by public agencies
- 41.326(256B,34CFR300) Other rules concerning IEPs
- 41.327(256B,34CFR300) Educational placements
- 41.328(256B,34CFR300) Alternative means of meeting participation
- 41.329 to 41.399 Reserved

DIVISION VI

ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

- 41.400(256B,34CFR300) Shared responsibility
- 41.401(256B,34CFR300) Licensure (certification)
- 41.402(256B,273,34CFR300) Authorized personnel
- 41.403(256B) Paraprofessionals
- 41.404(256B) Policies and procedures required of all public agencies
- 41.405(256B) Special health services
- 41.406(256B) Additional requirements of LEAs
- 41.407(256B,273,34CFR300) Additional requirements of AEAs
- 41.408(256B,273,34CFR300) Instructional services
- 41.409(256B,34CFR300) Support services
- 41.410(256B,34CFR300) Itinerant services
- 41.411(256B,34CFR300) Related services, supplementary aids and services
- 41.412(256B,34CFR300) Transportation
- 41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools
- 41.414 to 41.499 Reserved

DIVISION VII

PROCEDURAL SAFEGUARDS

- 41.500(256B,34CFR300) Responsibility of SEA and other public agencies
- 41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings
- 41.502(256B,34CFR300) Independent educational evaluation
- 41.503(256B,34CFR300) Prior notice by the public agency; content of notice
- 41.504(256B,34CFR300) Procedural safeguards notice
- 41.505(256B,34CFR300) Electronic mail
- 41.506(256B,34CFR300) Mediation
- 41.507(256B,34CFR300) Filing a due process complaint
- 41.508(256B,34CFR300) Due process complaint
- 41.509(256B,34CFR300) Model forms
- 41.510(256B,34CFR300) Resolution process
- 41.511(256B,34CFR300) Impartial due process hearing
- 41.512(256B,34CFR300) Hearing rights
- 41.513(256B,34CFR300) Hearing decisions
- 41.514(256B,34CFR300) Finality of decision
- 41.515(256B,34CFR300) Timelines and convenience of hearings
- 41.516(256B,34CFR300) Civil action
- 41.517(256B,34CFR300) Attorneys' fees
- 41.518(256B,34CFR300) Child's status during proceedings
- 41.519(256B,34CFR300) Surrogate parents
- 41.520(256B,34CFR300) Transfer of parental rights at age of majority
- 41.521 to 41.529 Reserved
- 41.530(256B,34CFR300) Authority of school personnel
- 41.531(256B,34CFR300) Determination of setting

- 41.532(256B,34CFR300) Appeal
- 41.533(256B,34CFR300) Placement during appeals and mediations
- 41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services
- 41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities
- 41.536(256B,34CFR300) Change of placement because of disciplinary removals
- 41.537(256B,34CFR300) State enforcement mechanisms
- 41.538 to 41.599 Reserved

DIVISION VIII

MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

- 41.600(256B,34CFR300) State monitoring and enforcement
- 41.601(256B,34CFR300) State performance plans and data collection
- 41.602(256B,34CFR300) State use of targets and reporting
- 41.603(256B,34CFR300) Department review and determination regarding public agency performance
- 41.604(256B,34CFR300) Enforcement
- 41.605(256B,34CFR300) Withholding funds
- 41.606(256B,34CFR300) Public attention
- 41.607 Reserved
- 41.608(256B,34CFR300) State enforcement
- 41.609(256B,34CFR300) State consideration of other state or federal laws
- 41.610(256B,34CFR300) Confidentiality
- 41.611(256B,34CFR300) Definitions
- 41.612(256B,34CFR300) Notice to parents
- 41.613(256B,34CFR300) Access rights
- 41.614(256B,34CFR300) Record of access
- 41.615(256B,34CFR300) Records on more than one child
- 41.616(256B,34CFR300) List of types and locations of information
- 41.617(256B,34CFR300) Fees
- 41.618(256B,34CFR300) Amendment of records at parent's request
- 41.619(256B,34CFR300) Opportunity for a hearing
- 41.620(256B,34CFR300) Result of hearing
- 41.621(256B,34CFR300) Hearing procedures
- 41.622(256B,34CFR300) Consent
- 41.623(256B,34CFR300) Safeguards
- 41.624(256B,34CFR300) Destruction of information
- 41.625(256B,34CFR300) Children's rights
- 41.626(256B,34CFR300) Enforcement
- 41.627 to 41.639 Reserved
- 41.640(256B,34CFR300) Annual report of children served—report requirement
- 41.641(256B,34CFR300) Annual report of children served—information required in the report
- 41.642(256B,34CFR300) Data reporting
- 41.643(256B,34CFR300) Annual report of children served—certification
- 41.644(256B,34CFR300) Annual report of children served—criteria for counting children
- 41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA
- 41.646(256B,34CFR300) Disproportionality
- 41.647 to 41.699 Reserved

DIVISION IX

ALLOCATIONS BY THE SECRETARY TO THE STATE

- 41.700 to 41.703 Reserved
- 41.704(256B,34CFR300) State-level activities
- 41.705(256B,34CFR300) Subgrants to AEAs
- 41.706 to 41.799 Reserved

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

- 41.800(256B,34CFR300) General rule
- 41.801 and 41.802 Reserved
- 41.803(256B,34CFR300) Definition of state
- 41.804(256B,34CFR300) Eligibility
- 41.805 Reserved
- 41.806(256B,34CFR300) Eligibility for financial assistance
- 41.807 to 41.811 Reserved
- 41.812(256B,34CFR300) Reservation for state activities
- 41.813(256B,34CFR300) State administration
- 41.814(256B,34CFR300) Other state-level activities
- 41.815(256B,34CFR300) Subgrants to AEAs
- 41.816(256B,34CFR300) Allocations to AEAs
- 41.817(256B,34CFR300) Reallocation of AEA funds
- 41.818(256B,34CFR300) Part C of the Act inapplicable
- 41.819 to 41.899 Reserved

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

- 41.900(256B,282) Scope
- 41.901(256B,282) Records and reports
- 41.902(256B,282) Audit
- 41.903(256B,282) Contractual agreements
- 41.904(256B) Research and demonstration projects and models for special education program development
- 41.905(256B,273) Additional special education
- 41.906(256B,273,282) Extended school year services
- 41.907(256B,282,34CFR300,303) Program costs
- 41.908(256B,282) Accountability
- 41.909 to 41.999 Reserved

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

- 41.1000(17A,256B,290) Applicability
- 41.1001(17A,256B,290) Definitions
- 41.1002(256B,34CFR300) Special education mediation conference
- 41.1003(17A,256B) Procedures concerning due process complaints
- 41.1004(17A,256B) Participants in the hearing
- 41.1005(17A,256B) Convening the hearing
- 41.1006(17A,256B) Stipulated record hearing
- 41.1007(17A,256B) Evidentiary hearing
- 41.1008(17A,256B) Mixed evidentiary and stipulated record hearing
- 41.1009(17A,256B) Witnesses
- 41.1010(17A,256B) Rules of evidence
- 41.1011(17A,256B) Communications
- 41.1012(17A,256B) Record
- 41.1013(17A,256B) Decision and review
- 41.1014(17A,256B) Finality of decision
- 41.1015(256B,34CFR300) Disqualification of mediator
- 41.1016(17A) Correcting decisions of administrative law judges
- 41.1017 to 41.1099 Reserved

DIVISION XIII

ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

41.1100(256B,34CFR300) References to Code of Federal Regulations

41.1101(256B,34CFR300) Severability

CHAPTER 42

Reserved

TITLE VIII

SCHOOL TRANSPORTATION

CHAPTER 43

PUPIL TRANSPORTATION

DIVISION I

TRANSPORTATION ROUTES

43.1(285) Intra-area education agency routes

43.2(285) Interarea education agency routes

DIVISION II

PRIVATE CONTRACTORS

43.3(285) Contract required

43.4(285) Uniform charge

43.5(285) Board must be party

43.6(285) Contract with parents

43.7(285) Vehicle requirements

DIVISION III

FINANCIAL RECORDS AND REPORTS

43.8(285) Required charges

43.9(285) Activity trips deducted

DIVISION IV

USE OF SCHOOL BUSES

43.10(285) Permitted uses listed

43.11(285) Teacher transportation

DIVISION V

THE BUS DRIVER

43.12(285) Driver qualifications

43.13(285) Stability factors

43.14(285) Driver age

43.15(285) Physical fitness

43.16 Reserved

43.17(285) Insulin-dependent diabetics

43.18(285) Authorization to be carried by driver

43.19 and 43.20 Reserved

43.21(285) Experience, traffic law knowledge and driving record

43.22(321) Fee collection and distribution of funds

43.23(285) Application form

43.24(321) Authorization denials and revocations

DIVISION VI

PURCHASE OF BUSES

43.25(285) Local board procedure

43.26(285) Financing

43.27 to 43.29 Reserved

DIVISION VII
MISCELLANEOUS REQUIREMENTS

43.30(285)	Semiannual inspection
43.31(285)	Maintenance record
43.32(285)	Drivers' schools
43.33(285)	Insurance
43.34(285)	Contract—privately owned buses
43.35(285)	Contract—district-owned buses
43.36(285)	Accident reports
43.37(285)	Railroad crossings
43.38(285)	Driver restrictions
43.39(285)	Civil defense projects
43.40(285)	Pupil instruction
43.41(285)	Trip inspections
43.42(285)	Loading and unloading areas
43.43(285)	Communication equipment

DIVISION VIII
COMMON CARRIERS

43.44(285)	Standards for common carriers
------------	-------------------------------

CHAPTER 44
SCHOOL BUSES

44.1(285)	Requirements for manufacturers
44.2(285)	School bus—type classifications
44.3(285)	School bus chassis
44.4(285)	School bus body
44.5(285)	Construction of vehicles for children with mobility problems
44.6(285)	Family-type or multipurpose passenger vehicles
44.7(285)	Repair, replacement of school bus body and chassis components following original equipment manufacture

CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
VOCATIONAL EDUCATION PROGRAMS

46.1(258)	Standards for vocational education
46.2(258)	Planning process
46.3(258)	Public involvement and participation
46.4(258)	Final plan and accountability report
46.5(258)	Geographic area
46.6(258)	Revised standards for vocational education
46.7(258)	Definitions and descriptions of procedures

CHAPTER 47
CAREER ACADEMIES

47.1(260C)	Definitions
47.2(260C)	Career academy program of study

CHAPTERS 48 to 50
Reserved

TITLE X
VETERANS' TRAINING

CHAPTER 51
APPROVAL OF ON-THE-JOB TRAINING ESTABLISHMENTS
UNDER THE MONTGOMERY G.I. BILL

- 51.1(256) Application
- 51.2(256) Content and approval of application
- 51.3(256) Wage schedules

CHAPTER 52
APPROVAL OF EDUCATIONAL INSTITUTIONS
FOR THE EDUCATION AND TRAINING OF ELIGIBLE VETERANS
UNDER THE MONTGOMERY G.I. BILL

- 52.1(256) Colleges
- 52.2(256) High schools
- 52.3 Reserved
- 52.4(256) Schools of Bible or theology
- 52.5(256) Schools of nursing
- 52.6(256) Hospitals
- 52.7(256) Schools of cosmetology
- 52.8(256) Schools of barbering
- 52.9 Reserved
- 52.10(256) Schools of business
- 52.11(256) Trade schools
- 52.12(256) Correspondence schools
- 52.13(256) Successful operation on a continuous basis
- 52.14(256) Nonaccredited schools
- 52.15(256) Evaluation standards

CHAPTERS 53 to 55
Reserved

TITLE XI
VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES

DIVISION I
SCOPE AND GENERAL PRINCIPLES

- 56.1(259) Responsibility of division
- 56.2(259) Nondiscrimination

DIVISION II
DEFINITIONS

- 56.3(259) Definitions

DIVISION III
ELIGIBILITY

- 56.4(259) Individuals who are recipients of SSD/SSI
- 56.5(259) Eligibility for vocational rehabilitation services
- 56.6(259) Eligibility for specific services
- 56.7(259) Areas in which exceptions shall not be granted
- 56.8(259) Waiting list
- 56.9(259) Individuals who are blind
- 56.10(259) Students in high school

56.11(259) Establishment of financial need

DIVISION IV
CASE MANAGEMENT

56.12(259) Case finding and intake

56.13(259) Case diagnosis

56.14(259) Individual plan for employment (IPE)

DIVISION V
SERVICES

56.15(259) Scope of services

56.16(259) Training

56.17(259) Maintenance

56.18(259) Transportation

56.19(259) Rehabilitation technology

56.20 Reserved

56.21(259) Placement

56.22(259) Supported employment and transitional employment

56.23(259) Miscellaneous or auxiliary services

56.24(259) Facilities

56.25(259) Exceptions to payment for services

56.26(259) Exceptions to duration of services

56.27(259) Maximum rates of payment to training facilities

DIVISION VI
PURCHASING PRINCIPLES

56.28(259) Purchasing

DIVISION VII
SUPERVISOR REVIEW, MEDIATION, HEARINGS, AND APPEALS

56.29(259) Review process

56.30(259) Supervisor review

56.31(259) Mediation

56.32(259) Hearing before impartial hearing officer

DIVISION VIII
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

56.33(259) Collection and maintenance of records

56.34(259) Personally identifiable information

56.35(259) Other groups of records routinely available for public inspection

DIVISION IX
STATE REHABILITATION COUNCIL

56.36(259) State rehabilitation council

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

56.37(259) Purpose

56.38(259) Eligibility requirements

56.39(259) Application procedure

56.40(259) Award of technical assistance funds

56.41(259) Business plan feasibility study procedure

56.42(259) Award of financial assistance funds

CHAPTER 57
Reserved

TITLE XII
PROGRAMS ADMINISTRATION

CHAPTER 58
SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS
FOR OTHER FOODS AND BEVERAGES

58.1(283A,256) Authority

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

58.2(283A) Definitions
58.3(283A) Agreement required
58.4(283A) State plan
58.5(283A) Service area defined
58.6(283A) School breakfast program
58.7(283A) School lunch program
58.8(283A) Procurement

DIVISION II
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

58.9(256) Definitions
58.10(256) Scope
58.11(256) Nutritional content standards

CHAPTER 59
GIFTED AND TALENTED PROGRAMS

59.1(257) Scope and general principles
59.2(257) Definitions
59.3 Reserved
59.4(257) Program plan
59.5(257) Responsibilities of school districts
59.6(257) Responsibilities of area education agencies
59.7(257) Responsibilities of the department

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

60.1(280) Scope
60.2(280) Definitions
60.3(280) School district responsibilities
60.4(280) Department responsibility
60.5(280) Nonpublic school participation
60.6(280) Funding

CHAPTER 61
IOWA READING RESEARCH CENTER

61.1(256) Establishment
61.2(256) Purpose
61.3(256) Intensive summer literacy program
61.4(256) First efforts of the center
61.5(256) Nature of the center's operation
61.6(256) Nature of the center's products
61.7(256) Governance and leadership of the center
61.8(256) Financing of the center
61.9(256) Annual report

CHAPTER 62

Reserved

CHAPTER 63

EDUCATIONAL PROGRAMS AND SERVICES
FOR PUPILS IN JUVENILE HOMES

63.1(282)	Scope
63.2(282)	Definitions
63.3(282)	Forms
63.4(282)	Budget amendments
63.5(282)	Area education agency responsibility
63.6(282)	Educational program
63.7(282)	Special education
63.8(282)	Educational services
63.9(282)	Media services
63.10(282)	Other responsibilities
63.11(282)	Curriculum
63.12(282)	Disaster procedures
63.13(282)	Maximum class size
63.14(282)	Teacher certification and preparation
63.15(282)	Aides
63.16(282)	Accounting
63.17(282)	Revenues
63.18(282)	Expenditures
63.19(282)	Claims
63.20(282)	Audits
63.21(282)	Waivers

CHAPTER 64

CHILD DEVELOPMENT COORDINATING COUNCIL

64.1(256A,279)	Purpose
64.2(256A,279)	Definitions
64.3(256A,279)	Child development coordinating council
64.4(256A,279)	Procedures
64.5(256A,279)	Duties
64.6(256A,279)	Eligibility identification procedures
64.7(256A,279)	Primary eligibility
64.8(256A,279)	Secondary eligibility
64.9(256A,279)	Grant awards criteria
64.10(256A,279)	Application process
64.11(256A,279)	Request for proposals
64.12(256A,279)	Grant process
64.13(256A,279)	Award contracts
64.14(256A,279)	Notification of applicants
64.15(256A,279)	Grantee responsibilities
64.16(256A,279)	Withdrawal of contract offer
64.17(256A,279)	Evaluation
64.18(256A,279)	Contract revisions and budget reversions
64.19(256A,279)	Termination for convenience
64.20(256A,279)	Termination for cause
64.21(256A,279)	Responsibility of grantee at termination
64.22(256A,279)	Appeal from terminations

- 64.23(256A,279) Refusal to issue ruling
- 64.24(256A,279) Request for Reconsideration
- 64.25(256A,279) Refusal to issue decision on request
- 64.26(256A,279) Granting a Request for Reconsideration

CHAPTER 65

INNOVATIVE PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

- 65.1(279) Purpose
- 65.2(279) Definitions
- 65.3(279) Eligibility identification procedures
- 65.4(279) Primary risk factor
- 65.5(279) Secondary risk factors
- 65.6(279) Grant awards criteria
- 65.7(279) Application process
- 65.8(279) Request for proposals
- 65.9(279) Grant process
- 65.10 Reserved
- 65.11(279) Notification of applicants
- 65.12(279) Grantee responsibilities
- 65.13(279) Withdrawal of contract offer
- 65.14(279) Evaluation
- 65.15(279) Contract revisions
- 65.16(279) Termination for convenience
- 65.17(279) Termination for cause
- 65.18(279) Responsibility of grantee at termination
- 65.19(279) Appeals from terminations
- 65.20(279) Refusal to issue ruling
- 65.21(279) Requests for Reconsideration
- 65.22(279) Refusal to issue decision on request
- 65.23(279) Granting a Request for Reconsideration

CHAPTER 66

SCHOOL-BASED YOUTH SERVICES PROGRAMS

- 66.1(279) Scope, purpose and general principles
- 66.2(279) Definitions
- 66.3(279) Development of a program plan
- 66.4(279) Program plan
- 66.5(279) Evaluation of financial support
- 66.6(279) Responsibilities of area education agencies
- 66.7(279) Responsibilities of the department of education

CHAPTER 67

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS OF AT-RISK CHILDREN AGED BIRTH THROUGH THREE YEARS

- 67.1(279) Purpose
- 67.2(279) Definitions
- 67.3(279) Eligibility identification procedures
- 67.4(279) Eligibility
- 67.5(279) Secondary eligibility
- 67.6(279) Grant awards criteria
- 67.7(279) Application process
- 67.8(279) Request for proposals
- 67.9(279) Award contracts

67.10(279)	Notification of applicants
67.11(279)	Grantee responsibilities
67.12(279)	Withdrawal of contract offer
67.13(279)	Evaluation
67.14(279)	Contract revisions
67.15(279)	Termination for convenience
67.16(279)	Termination for cause
67.17(279)	Responsibility of grantee at termination
67.18(279)	Appeal from terminations
67.19(279)	Refusal to issue ruling
67.20(279)	Request for Reconsideration
67.21(279)	Refusal to issue decision on request
67.22(279)	Granting a Request for Reconsideration

CHAPTER 68 IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

DIVISION I GENERAL PROVISIONS

68.1(256F,83GA,SF2033)	Purpose
68.2(256F,83GA,SF2033)	Definitions

DIVISION II CHARTER SCHOOLS

68.3(256F,83GA,SF2033)	Application to a school board
68.4(256F,83GA,SF2033)	Review process
68.5(256F,83GA,SF2033)	Ongoing review by department
68.6(256F,83GA,SF2033)	Renewal of charter
68.7(256F,83GA,SF2033)	Revocation of charter
68.8 to 68.10	Reserved

DIVISION III INNOVATION ZONE SCHOOLS

68.11(256F,83GA,SF2033)	Application process
68.12(256F,83GA,SF2033)	Review process
68.13(256F,83GA,SF2033)	Ongoing review by department
68.14(256F,83GA,SF2033)	Renewal of contract
68.15(256F,83GA,SF2033)	Revocation of contract

CHAPTER 69 Reserved

TITLE XIII *AREA EDUCATION AGENCIES*

CHAPTERS 70 and 71 Reserved

CHAPTER 72 ACCREDITATION OF AREA EDUCATION AGENCIES

72.1(273)	Scope
72.2(273)	Definitions
72.3(273)	Accreditation components
72.4(273)	Standards for services
72.5 to 72.8	Reserved
72.9(273)	Comprehensive improvement plan

- 72.10(273) Annual budget and annual progress report
- 72.11(273) Comprehensive site visit

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTERS 73 to 76
Reserved

CHAPTER 77
STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

- 77.1(256) General statement
- 77.2(256) Definitions
- 77.3(256) Institutions affected
- 77.4(256) Criteria for Iowa teacher intern preparation programs
- 77.5(256) Approval of programs
- 77.6(256) Periodic reports
- 77.7(256) Approval of program changes
- 77.8(256) Governance and resources
- 77.9(256) Diversity
- 77.10(256) Faculty
- 77.11(256) Teacher intern selection
- 77.12(256) Curriculum and instruction
- 77.13(256) Candidate support
- 77.14(256) Candidate assessment
- 77.15(256) Program evaluation

CHAPTER 78
Reserved

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR
PREPARATION PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

- 79.1(256) General statement
- 79.2(256) Definitions
- 79.3(256) Institutions affected
- 79.4(256) Criteria for practitioner preparation programs
- 79.5(256) Approval of programs
- 79.6(256) Visiting teams
- 79.7(256) Periodic reports
- 79.8(256) Reevaluation of practitioner preparation programs
- 79.9(256) Approval of program changes

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

- 79.10(256) Governance and resources standard
- 79.11(256) Diversity standard
- 79.12(256) Faculty standard
- 79.13(256) Assessment system and unit evaluation standard

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION
PROGRAMS FOR TEACHER CANDIDATES

- 79.14(256) Teacher preparation clinical practice standard
- 79.15(256) Teacher preparation candidate knowledge, skills and dispositions standard

DIVISION IV
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

- 79.16(256) Administrator preparation clinical practice standard
- 79.17(256) Administrator candidate knowledge, skills and dispositions standard
- 79.18 Reserved

DIVISION V
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS
OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

- 79.19(256) Purpose
- 79.20(256) Clinical practice standard
- 79.21(256) Candidate knowledge, skills and dispositions standard

CHAPTER 80
STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

- 80.1(272) General statement
- 80.2(272) Definitions
- 80.3(272) Institutions affected
- 80.4(272) Criteria for Iowa paraeducator preparation programs
- 80.5(272) Approval of programs
- 80.6(272) Periodic reports
- 80.7(272) Reevaluation of paraeducator preparation programs
- 80.8(272) Approval of program changes
- 80.9(272) Organizational and resources standards
- 80.10(272) Diversity
- 80.11(272) Paraeducator candidate performance standards

CHAPTER 81
STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

- 81.1(256) Definitions
- 81.2(256) Institutions eligible to provide a school business official preparation program
- 81.3(256) Approval of programs
- 81.4(256) Governance and resources standard
- 81.5(256) Instructor standard
- 81.6(256) Assessment system and institution evaluation standard
- 81.7(256) School business official candidate knowledge and skills standard
- 81.8(256) School business official mentoring program
- 81.9(256) Periodic reports
- 81.10(256) Reevaluation of school business official preparation programs
- 81.11(256) Approval of program changes

CHAPTER 82
Reserved

CHAPTER 83 TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

- 83.1(284,284A) Purposes
- 83.2(284,284A) Definitions

DIVISION II SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

- 83.3(284) Mentoring and induction program for beginning teachers
- 83.4(284) Iowa teaching standards and criteria
- 83.5(284) Evaluator approval training
- 83.6(284) Professional development for teachers
- 83.7(284) Teacher quality committees

DIVISION III SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

- 83.8(284A) Administrator quality program
- 83.9(284A) Mentoring and induction program for administrators
- 83.10(284A) Iowa school leadership standards and criteria for administrators
- 83.11(284A) Evaluation
- 83.12(284A) Professional development of administrators

CHAPTER 84 FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

- 84.1(256) Purpose
- 84.2(256) Definitions
- 84.3(256) Registration fee reimbursement program
- 84.4(256) NBC annual award
- 84.5(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award

CHAPTERS 85 to 93

Reserved

TITLE XV *EDUCATIONAL EXCELLENCE*

CHAPTER 94 ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM

- 94.1(256) Purpose
- 94.2(256) Eligibility identification procedures
- 94.3(256) Grant award procedure
- 94.4(256) Application process
- 94.5(256) Request for proposals
- 94.6(256) Grant process
- 94.7(256) Awards contract
- 94.8(256) Notification of applicants
- 94.9(256) Grantee responsibility

CHAPTER 95 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

- 95.1(256) Purpose
- 95.2(256) Definitions

95.3(256)	Equal employment opportunity standards
95.4(256)	Duties of boards of directors
95.5(256)	Plan components
95.6(256)	Dissemination
95.7(256)	Reports

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
STATEWIDE/LOCAL OPTION SALES AND
SERVICES TAX FOR SCHOOL INFRASTRUCTURE

96.1(423E,423F)	Definitions
96.2(423E,423F)	Reports to the department
96.3(423E,423F)	Combined actual enrollment
96.4(423E,423F)	Application and certificate of need process
96.5(423E,423F)	Review process
96.6(423E,423F)	Award process
96.7(423E,423F)	Applicant responsibilities
96.8(423E,423F)	Appeal of certificate denial

CHAPTER 97
SUPPLEMENTARY WEIGHTING

97.1(257)	Definitions
97.2(257)	Supplementary weighting plan
97.3(257)	Supplementary weighting plan for at-risk students
97.4(257)	Supplementary weighting plan for a regional academy
97.5(257)	Supplementary weighting plan for whole-grade sharing
97.6(257)	Supplementary weighting plan for ICN video services
97.7(257)	Supplementary weighting plan for operational services

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

98.1(256,257)	Definitions
98.2(256,257)	General finance
98.3 to 98.10	Reserved

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

98.11(257)	Categorical and noncategorical student counts
98.12(257,299A)	Home school assistance program
98.13(256C,257)	Statewide voluntary four-year-old preschool program
98.14(257)	Supplementary weighting
98.15(257)	Operational function sharing supplementary weighting
98.16(257,280)	Limited English proficiency (LEP) weighting
98.17(256B,257)	Special education weighting
98.18(257)	At-risk formula supplementary weighting
98.19(257)	Reorganization incentive weighting
98.20(257)	Gifted and talented program
98.21(257)	Returning dropout and dropout prevention program
98.22(257)	Use of the unexpended general fund balance
98.23(256D,257)	Iowa early intervention block grant, also known as early intervention supplement

98.24(257,284)	Teacher salary supplement
98.25	Reserved
98.26(257,284)	Educator quality professional development, also known as professional development supplement
98.27 to 98.39	Reserved

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

98.40(256,257,298A)	Grants in aid
98.41	Reserved
98.42(257,284)	Beginning teacher mentoring and induction program
98.43(257,284A)	Beginning administrator mentoring and induction program
98.44(257,301)	Nonpublic textbook services
98.45 to 98.59	Reserved

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670)	Levies and funds
98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670)	General fund
98.62(279,296,298,670)	Management fund
98.63(298)	Library levy fund
98.64(279,283,297,298)	Physical plant and equipment levy (PPEL) fund
98.65(276,300)	Public educational and recreational levy (PERL) fund
98.66(257,279,298A,565)	District support trust fund
98.67(257,279,298A,565)	Permanent funds
98.68(76,274,296,298,298A)	Debt service fund
98.69(76,273,298,298A,423E,423F)	Capital projects fund
98.70(279,280,298A)	Student activity fund
98.71(256B,257,298A)	Special education instruction fund
98.72(282,298A)	Juvenile home program instruction fund
98.73(283A,298A)	School nutrition fund
98.74(279,298A)	Child care and before- and after-school programs fund
98.75(298A)	Regular education preschool fund
98.76(298A)	Student construction fund
98.77(298A)	Other enterprise funds
98.78 to 98.81	Reserved
98.82(298A)	Internal service funds
98.83 to 98.91	Reserved
98.92(257,279,298A,565)	Private purpose trust funds
98.93(298A)	Other trust funds
98.94 to 98.100	Reserved
98.101(298A)	Agency funds
98.102 to 98.110	Reserved
98.111(24,29C,257,298A)	Emergency levy fund
98.112(275)	Equalization levy fund

CHAPTER 99
BUSINESS PROCEDURES AND DEADLINES

99.1(257)	Definitions
99.2(256,257,285,291)	Submission deadlines
99.3(257)	Good cause for late submission
99.4(24,256,257,291)	Budgets, accounting and reporting

CHAPTER 100

Reserved

TITLE XVII

PROTECTION OF CHILDREN

CHAPTER 101

Reserved

CHAPTER 102

PROCEDURES FOR CHARGING AND
INVESTIGATING INCIDENTS OF ABUSE
OF STUDENTS BY SCHOOL EMPLOYEES

102.1(280)	Statement of intent and purpose
102.2(280)	Definitions
102.3(280)	Jurisdiction
102.4(280)	Exceptions
102.5(280)	Duties of school authorities
102.6(280)	Filing of a report
102.7(280)	Receipt of report
102.8(280)	Duties of designated investigator—physical abuse allegations
102.9(280)	Duties of designated investigator—sexual abuse allegations
102.10(280)	Content of investigative report
102.11(280)	Founded reports—designated investigator's duties
102.12(280)	Level-two investigator's duties
102.13(280)	Retention of records
102.14(280)	Substantial compliance
102.15(280)	Effective date

CHAPTER 103

CORPORAL PUNISHMENT BAN; RESTRAINT;
PHYSICAL CONFINEMENT AND DETENTION

103.1(256B,280)	Purpose
103.2(256B,280)	Ban on corporal punishment
103.3(256B,280)	Exclusions
103.4(256B,280)	Exceptions and privileges
103.5(256B,280)	Reasonable force
103.6(256B,280)	Physical confinement and detention
103.7(256B,280)	Additional minimum mandatory procedures
103.8(256B,280)	Additional provisions concerning physical restraint

CHAPTERS 104 to 119

Reserved

TITLE XVIII

EARLY CHILDHOOD

CHAPTER 120

EARLY ACCESS INTEGRATED SYSTEM OF
EARLY INTERVENTION SERVICES

DIVISION I

PURPOSE AND APPLICABILITY

120.1(34CFR303)	Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services
120.2(34CFR303)	Applicability of this chapter

120.3(34CFR303) Applicable federal regulations

DIVISION II
DEFINITIONS

- 120.4(34CFR303) Act
- 120.5(34CFR303) At-risk infant or toddler
- 120.6(34CFR303) Child
- 120.7(34CFR303) Consent
- 120.8(34CFR303) Council
- 120.9(34CFR303) Day
- 120.10(34CFR303) Developmental delay
- 120.11(34CFR303) Early intervention service program
- 120.12(34CFR303) Early intervention service provider
- 120.13(34CFR303) Early intervention services
- 120.14(34CFR303) Elementary school
- 120.15(34CFR303) Free appropriate public education
- 120.16(34CFR303) Health services
- 120.17(34CFR303) Homeless children
- 120.18(34CFR303) Include; including
- 120.19(34CFR303) Indian; Indian tribe
- 120.20(34CFR303) Individualized family service plan
- 120.21(34CFR303) Infant or toddler with a disability
- 120.22(34CFR303) Lead agency
- 120.23(34CFR303) Local educational agency
- 120.24(34CFR303) Multidisciplinary
- 120.25(34CFR303) Native language
- 120.26(34CFR303) Natural environments
- 120.27(34CFR303) Parent
- 120.28(34CFR303) Parent training and information center
- 120.29(34CFR303) Personally identifiable information
- 120.30(34CFR303) Public agency
- 120.31(34CFR303) Qualified personnel
- 120.32(34CFR303) Scientifically based research
- 120.33(34CFR303) Secretary
- 120.34(34CFR303) Service coordination services (case management)
- 120.35(34CFR303) State
- 120.36(34CFR303) State educational agency
- 120.37(34CFR303) Ward of the state
- 120.38(34CFR303) Other definitions used in this chapter
- 120.39 to 120.99 Reserved

DIVISION III
STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

- 120.100(34CFR303) General authority
- 120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act
- 120.102(34CFR303) State conformity with Part C of the Act
- 120.103 and 120.104 Reserved
- 120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities
- 120.106 to 120.109 Reserved
- 120.110(34CFR303) Minimum components of a statewide system
- 120.111(34CFR303) State definition of developmental delay
- 120.112(34CFR303) Availability of early intervention services
- 120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures

120.114(34CFR303)	Individualized family service plan (IFSP)
120.115(34CFR303)	Comprehensive child find system
120.116(34CFR303)	Public awareness program
120.117(34CFR303)	Central directory
120.118(34CFR303)	Comprehensive system of personnel development (CSPD)
120.119(34CFR303)	Personnel standards
120.120(34CFR303)	Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities
120.121(34CFR303)	Policy for contracting or otherwise arranging for services
120.122(34CFR303)	Reimbursement procedures
120.123(34CFR303)	Procedural safeguards
120.124(34CFR303)	Data collection
120.125(34CFR303)	State interagency coordinating council
120.126(34CFR303)	Early intervention services in natural environments
120.127 to 120.199	Reserved

DIVISION IV
STATE APPLICATION AND ASSURANCES

120.200(34CFR303)	State application and assurances
120.201(34CFR303)	Designation of lead agency
120.202(34CFR303)	Certification regarding financial responsibility
120.203(34CFR303)	Statewide system and description of services
120.204	Reserved
120.205(34CFR303)	Description of use of funds
120.206(34CFR303)	Referral policies for specific children
120.207(34CFR303)	Availability of resources
120.208(34CFR303)	Public participation policies and procedures
120.209(34CFR303)	Transition to preschool and other programs
120.210(34CFR303)	Coordination with Head Start and Early Head Start, early education, and child care programs
120.211	Reserved
120.212(34CFR303)	Additional information and assurances
120.213 to 120.219	Reserved
120.220(34CFR303)	Assurances satisfactory to the Secretary
120.221(34CFR303)	Expenditure of funds
120.222(34CFR303)	Payor of last resort
120.223(34CFR303)	Control of funds and property
120.224(34CFR303)	Reports and records
120.225(34CFR303)	Prohibition against supplanting; indirect costs
120.226(34CFR303)	Fiscal control
120.227(34CFR303)	Traditionally underserved groups
120.228(34CFR303)	Subsequent state application and modifications of application
120.229 to 120.299	Reserved

DIVISION V
CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

120.300(34CFR303)	General
120.301(34CFR303)	Public awareness program—information for parents
120.302(34CFR303)	Comprehensive child find system
120.303(34CFR303)	Referral procedures
120.304 to 120.309	Reserved
120.310(34CFR303)	Post-referral timeline (45 calendar days)
120.311 to 120.319	Reserved
120.320(34CFR303)	Screening procedures

120.321(34CFR303)	Evaluation of the child and assessment of the child and family
120.322(34CFR303)	Determination that a child is not eligible
120.323 to 120.339	Reserved
120.340(34CFR303)	Individualized family service plan—general
120.341	Reserved
120.342(34CFR303)	Procedures for IFSP development, review, and evaluation
120.343(34CFR303)	IFSP team meeting and periodic review
120.344(34CFR303)	Content of an IFSP
120.345(34CFR303)	Interim IFSPs—provision of services before evaluations and assessments are completed
120.346(34CFR303)	Responsibility and accountability
120.347 to 120.399	Reserved

DIVISION VI
PROCEDURAL SAFEGUARDS

120.400(34CFR303)	General responsibility of lead agency for procedural safeguards
120.401(34CFR303)	Confidentiality and opportunity to examine records
120.402(34CFR303)	Confidentiality
120.403(34CFR303)	Definitions
120.404(34CFR303)	Notice to parents
120.405(34CFR303)	Access rights
120.406(34CFR303)	Record of access
120.407(34CFR303)	Records on more than one child
120.408(34CFR303)	List of types and locations of information
120.409(34CFR303)	Fees for records
120.410(34CFR303)	Amendment of records at a parent's request
120.411(34CFR303)	Opportunity for a hearing
120.412(34CFR303)	Result of hearing
120.413(34CFR303)	Hearing procedures
120.414(34CFR303)	Consent prior to disclosure or use
120.415(34CFR303)	Safeguards
120.416(34CFR303)	Destruction of information
120.417(34CFR303)	Enforcement
120.418 and 120.419	Reserved
120.420(34CFR303)	Parental consent and ability to decline services
120.421(34CFR303)	Prior written notice and procedural safeguards notice
120.422(34CFR303)	Surrogate parents
120.423 to 120.429	Reserved
120.430(34CFR303)	State dispute resolution options
120.431(34CFR303)	Mediation
120.432(34CFR303)	Adoption of state complaint procedures
120.433(34CFR303)	Minimum state complaint procedures
120.434(34CFR303)	Filing a complaint
120.435(34CFR303)	Appointment of an administrative law judge
120.436(34CFR303)	Parental rights in due process hearing proceedings
120.437(34CFR303)	Convenience of hearings and timelines
120.438(34CFR303)	Civil action
120.439(34CFR303)	Limitation of actions
120.440(34CFR303)	Rule of construction
120.441(34CFR303)	Attorney fees
120.442 to 120.448	Reserved
120.449(34CFR303)	State enforcement mechanisms
120.450 to 120.499	Reserved

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT

120.500(34CFR303)	Use of funds, payor of last resort, and system of payments
120.501(34CFR303)	Permissive use of funds by the department
120.502 to 120.509	Reserved
120.510(34CFR303)	Payor of last resort
120.511(34CFR303)	Methods to ensure the provision of, and financial responsibility for, Early ACCESS services
120.512 to 120.519	Reserved
120.520(34CFR303)	Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services
120.521(34CFR303)	System of payments and fees
120.522 to 120.599	Reserved

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

120.600(34CFR303)	Establishment of council
120.601(34CFR303)	Composition
120.602(34CFR303)	Meetings
120.603(34CFR303)	Use of funds by the council
120.604(34CFR303)	Functions of the council; required duties
120.605(34CFR303)	Authorized activities by the council
120.606 to 120.699	Reserved

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

120.700(34CFR303)	State monitoring and enforcement
120.701(34CFR303)	State performance plans and data collection
120.702(34CFR303)	State use of targets and reporting
120.703(34CFR303)	Department review and determination regarding EIS program performance
120.704(34CFR303)	Enforcement
120.705(34CFR303)	Withholding funds
120.706(34CFR303)	Public attention
120.707	Reserved
120.708(34CFR303)	State enforcement
120.709(34CFR303)	State consideration of other state or federal laws
120.710 to 120.719	Reserved
120.720(34CFR303)	Data requirements—general
120.721(34CFR303)	Annual report of children served—report requirement
120.722(34CFR303)	Data reporting
120.723(34CFR303)	Annual report of children served—certification
120.724(34CFR303)	Annual report of children served—other responsibilities of the department
120.725 to 120.800	Reserved

DIVISION X
OTHER PROVISIONS

120.801(34CFR303)	Early ACCESS system—state level
120.802(34CFR303)	Interagency service planning
120.803(34CFR303)	System-level disputes
120.804(34CFR303)	Early ACCESS system—regional and community levels
120.805(34CFR303)	Provision of year-round services
120.806(34CFR303)	Evaluation and improvement
120.807(34CFR303)	Research
120.808(34CFR303)	Records and reports

120.809(34CFR303)	Information for department
120.810(34CFR303)	Public information
120.811(34CFR303)	Dispute resolution: practice before mediators and administrative law judges
120.812(34CFR303)	References to federal law
120.813(34CFR303)	Severability

CHAPTER 61
IOWA READING RESEARCH CENTER

281—61.1(256) Establishment. There is established an Iowa reading research center. The director of the department of education shall select a public education entity to serve as the host for the Iowa reading research center. Preference shall be given to a school district, an area education agency, or the joint area education agencies system. The selection of a host shall be for a specified period of time.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.2(256) Purpose. The purpose of the center shall be to apply current research on literacy to provide for the development and dissemination of all of the following, although each of the following will not necessarily be of equal priority or immediacy:

1. Instructional strategies for prekindergarten through grade 12 to achieve literacy proficiency that includes reading, reading comprehension, and writing for all students.
2. Strategies for identifying and providing evidence-based interventions for students, beginning in kindergarten, who are at risk of not achieving literacy proficiency.
3. Models for effective school, parent, and community partnerships to improve student literacy.
4. Reading assessments.
5. Professional development strategies and materials to support teacher effectiveness in student literacy development.
6. Data reports on attendance center, school district, and statewide progress toward literacy proficiency in the context of student, attendance center, and school district demographic characteristics.
7. An intensive summer literacy program, referred to in rule 281—61.3(256).

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.3(256) Intensive summer literacy program. The center shall establish program criteria and guidelines for implementation of the program by school districts, under rules adopted by the state board of education.

61.3(1) Program criteria. Reserved.

61.3(2) Guidelines for implementation by school districts. Reserved.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.4(256) First efforts of the center. The first efforts of the center shall focus on improving reading performance and instruction in kindergarten through grade 3.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.5(256) Nature of the center's operation. The center shall govern its work according to the following requirements.

61.5(1) Use of expertise. The center shall draw upon national and state expertise in the field of literacy proficiency, including experts from Iowa's institutions of higher education and area education agencies with backgrounds in literacy development.

61.5(2) Data and report development. The center and its director shall seek support from the Iowa research community in methodologies for the collection of student literacy data and in data report development, the analysis of available information from Iowa education data sources, and the analysis of progress toward literacy proficiency.

61.5(3) Coordination with the department. The center and its director shall work with the department of education to identify additional needs for tools and technical assistance for Iowa schools to help schools achieve literacy proficiency goals and seek public and private partnerships in developing and accessing necessary tools and technical assistance.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.6(256) Nature of the center's products. The center's strategies, models, materials, and assessments, including the products referred to in subrule 61.6(3), shall be judged by and subject to the following requirements:

61.6(1) *Research-based.* To the extent possible, strategies, models, materials, and assessments shall be research-based.

61.6(2) *Replicable.* The strategies, models, materials, and assessments produced by the center shall contain evidence establishing that they are replicable by Iowa school districts, area education agencies, and accredited nonpublic schools.

61.6(3) *Sustainable.* The strategies, models, and materials produced by the center shall contain evidence establishing that they are capable of sustainable implementation.

61.6(4) *Publicly available.* Due to the nature of the center, its products shall be widely and liberally distributed and used.

a. Regardless of any intellectual property right that may accrue to the center, the department of education shall have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center.

b. Regardless of any intellectual property right that may accrue to the center, each school district, area education agency, and accredited nonpublic school shall have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center.

c. Regardless of any intellectual property right that may accrue to the center, each school district, area education agency, accredited nonpublic school, and practitioner preparation program approved by the department of education shall have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center to provide training to current and prospective teachers and administrators.

d. Notwithstanding paragraphs 61.6(4) “a” through “c,” the center may seek reimbursement from a school district, area education agency, accredited nonpublic school, or practitioner preparation program approved by the department of education for the actual cost of delivering the center’s products. For purposes of this paragraph, actual costs may include printing, telecommunications expenses, personnel time, postage, and other costs, but shall not include any amount that represents a royalty or other compensation for the use of the center’s intellectual property.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.7(256) Governance and leadership of the center. The center shall be governed in the following manner.

61.7(1) *Director and other personnel.* The center shall have a director who shall be an employee of the host referred to in rule 281—61.1(256). The director of the department of education or the director’s designee, in consultation with the host and the advisory council, shall select, determine the compensation of, and annually evaluate the director of the center.

a. Responsibilities of the director of the center will include the following:

- (1) Enacting the priorities of the reading research center, as defined by the department;
- (2) Achieving the Iowa reading research center’s mission and purpose;
- (3) Directing the center’s budget;
- (4) Managing the center’s staff;
- (5) Managing and overseeing the request for proposal (RFP) or contracting process or both to enact priorities of the center;
- (6) Providing oversight and management of all contracts and projects initiated by the center;
- (7) Establishing models for an intensive summer literacy program replicable in Iowa schools;
- (8) Disseminating literacy research and its application; and
- (9) Submitting required reports to the department and the general assembly.

b. The center may employ such other personnel as may be necessary to fulfill its responsibilities, upon approval of such positions by the director of the department of education.

61.7(2) *Advisory council.* When setting priorities for the center, the department of education shall seek advice and assistance from an advisory council. The advisory council shall establish its bylaws and shall govern itself by the following paragraphs:

a. The advisory council shall consist of representatives of the department, school districts, area education agencies, accredited nonpublic schools, institutions of higher education, organizations representing reading and literacy teachers, community-based nonprofit organizations that are focused on literacy, statewide literacy organizations, and parents. Members who offer other perspectives may be appointed. Members may serve in more than one role. Members shall be appointed by the director of the department of education or the director's designee. Actual expenses for members of the advisory council may be assumed by the reading research center.

b. The advisory council shall recommend and continually review center priorities, which shall be consistent with these rules. The advisory council shall annually submit to the department a recommended set of projects and priorities for the reading research center.

c. The advisory council shall provide input to the director of the department on the desired qualifications for the position of director of the reading research center.

d. The advisory council shall advise and assist the center in preparing the annual report required by rule 281—61.9(256).

e. The advisory council shall foster collaboration across the Iowa reading research and evaluation community and serve as a facilitator in identifying additional research needs and ways to apply research to practice in Iowa schools and communities.

f. The advisory council shall stay abreast of emerging trends, research, and effective literacy practices.

g. The advisory council shall assist the director of the center in reviewing proposals for quality, viability, and statewide impact.

h. Meetings of the advisory council are public meetings subject to statutory open meetings requirements.

61.7(3) *Use of advisory council recommendations.* The department shall consider the priorities established by its advisory council in determining which projects or activities to direct the center to enact, consistent with these rules and with the center's funding.

61.7(4) *Contracts and awards.* In the furtherance of its work, the center may contract with other entities or may make awards by competitive bid. The rules in this chapter shall be a term of any contract or award under this subrule. Any product produced pursuant to a contract or award shall be subject to these rules, including subrule 61.6(4).

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.8(256) *Financing of the center.* The center will be financed in the following manner:

61.8(1) *Host as fiscal agent.* The host shall be the fiscal agent for the center.

61.8(2) *Public or private funds.* The host and the center may solicit and accept funds from public and private sources for the fulfillment of the mission and purpose of the center.

61.8(3) *Oversight by the department.* The department shall have oversight responsibilities for the financial operations of the center.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

281—61.9(256) *Annual report.* The center shall submit a report of its activities to the general assembly by January 15 annually.

[ARC 0475C, IAB 11/28/12, effective 1/2/13]

These rules are intended to implement Iowa Code sections 256.7(31) and 256.9(53) "c."

[Filed ARC 0475C (Notice ARC 0389C, IAB 10/3/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 62
EDUCATIONAL IMPROVEMENT PROJECTS
[Prior to 9/7/88, see Public Instruction Department [670] Ch 60]
Rescinded IAB 12/6/06, effective 1/10/07

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR
PREPARATION PROGRAMS

(Effective August 31, 2001)

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.1(256) General statement. Programs of practitioner and administrator preparation leading to licensure in Iowa are subject to approval by the state board of education, as provided in Iowa Code chapter 256. All programs having accreditation on August 31, 2001, are presumed accredited unless or until the state board takes formal action to remove accreditation.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.2(256) Definitions. For purposes of clarity, the following definitions are used throughout the chapter:

“Administrator candidates” means individuals who are enrolled in practitioner preparation programs leading to administrator licensure.

“Administrator preparation programs” means the programs of practitioner preparation leading to licensure of administrators.

“Area education agency” or *“AEA”* means a regional service agency that provides school improvement services for students, families, teachers, administrators and the community.

“Candidates” means individuals who are preparing to become educational practitioners through a practitioner preparation program.

“Clinical experiences” means a candidate’s direct experiences in PK-12 schools. “Clinical experiences” includes field experiences prior to student teaching or internship; internships for preparation programs other than teacher preparation; and student teaching, a full-time clinical practice experience in which the teacher preparation program culminates.

“College/university supervisors” means qualified employees or individuals contracted by the college or university offering teacher preparation who provide guidance and supervision to teacher candidates during the candidates’ clinical experiences in the schools.

“Cooperating administrators” means school administrators who provide guidance and supervision to administrator candidates during the candidates’ clinical experiences in the schools.

“Cooperating teachers” means appropriately licensed classroom teachers of record who provide guidance and supervision to teacher candidates in the cooperating teachers’ classrooms during the candidates’ field experiences in the schools.

“Delivery model” means the form in which the educator preparation program is delivered to candidates and may include conventional campus-based, face-to-face models, distance learning models, off-campus models, programs delivered through consortia arrangements, and programs or elements delivered by contracted outside providers.

“Department” means department of education.

“Director” means director of the department.

“Distance learning” means a formal education process in which the major portion of the instruction occurs when the learner and the instructor are not in the same place at the same time and occurs through virtually any media including printed materials, videotapes, audio recordings, facsimiles, telephone communications, the ICN, Internet communications through E-mail, and Web-based delivery systems.

“Distance learning program” means a program in which over half of the required courses in the program occur when the learner and the instructor are not in the same place at the same time (see definition of distance learning). These programs include those offered by the professional educational unit through a contract with an outside vendor or in a consortium arrangement with other higher education institutions, area education agencies, or other entities.

“Diverse groups” means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, disability, or socioeconomic status.

“EPS” means Educational Leadership Policy Standards, national standards for educational administration.

“Facility” means a residential or other setting for a child in which the child receives an appropriate educational program. “Facility” includes a foster care facility as defined in Iowa Code section 237.1, a facility that provides residential treatment pursuant to Iowa Code chapter 125, an approved or licensed shelter care home as defined in Iowa Code section 232.2, subsection 34, an approved juvenile detention home as defined in Iowa Code section 232.2, subsection 32, and a psychiatric medical institution for children as defined in Iowa Code section 135H.1.

“ICN” means the Iowa communications network.

“Institution” means a college or university in Iowa offering practitioner preparation or an educational organization offering administrator preparation and seeking state board approval of its practitioner preparation program(s).

“INTASC” means Interstate New Teacher Assessment and Support Consortium, the source of national standards for beginning teachers.

“Iowa core curriculum” means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

“ISSL” means Iowa Standards for School Leaders.

“Mentor” means an experienced educator who provides guidance to a practitioner, administrator candidate or novice educator.

“Novice” means an individual in an educational position who has no previous experience in the role of that position or who is newly licensed by the board of educational examiners.

“Off-campus program” means a program offered by a unit on sites other than the main campus. Off-campus programs may be offered in the same state, in other states, or in countries other than the United States.

“Practitioner candidates” means individuals who are enrolled in practitioner preparation programs leading to licensure as teachers, as administrators or as other professional school personnel that require a license issued by the board of educational examiners.

“Practitioner preparation programs” means the programs of practitioner preparation leading to licensure of teachers, administrators, and other professional school personnel.

“Program” means a specific field of specialization leading to a specific endorsement.

“Regional accreditation” means official approval by an agency or organization approved or recognized by the U.S. Department of Education.

“State board” means Iowa state board of education.

“Students” means PK-12 pupils.

“Teacher candidates” means individuals who are enrolled in practitioner preparation programs leading to teacher licensure.

“Unit” means the organizational entity within an institution with the responsibility of administering and delivering the practitioner preparation program(s).

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.3(256) Institutions affected. In order to attain the authority to recommend candidates for Iowa licensure, colleges and universities offering practitioner preparation programs in Iowa, as well as other Iowa educational organizations engaged in the preparation of school administrators, shall meet the standards contained in this chapter to gain or maintain state board approval of their programs.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.4(256) Criteria for practitioner preparation programs. Each institution seeking approval by the state board of its programs of practitioner preparation, including those programs offered by distance delivery models or at off-campus locations, must be regionally accredited and shall file evidence of

the extent to which each program meets the standards contained in this chapter by means of a written self-evaluation report and an evaluation conducted by the department. The institution shall demonstrate such evidence by means of a template developed by the department and through a site visit conducted by the department. After the state board has approved the practitioner preparation programs of an institution, students who complete the programs and are recommended by the authorized official of that institution will be issued the appropriate license and endorsement(s).

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.5(256) Approval of programs. Approval of institutions' practitioner preparation programs by the state board shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

Approval, if granted, shall be for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

If approval is not granted, the applying institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at a regularly scheduled meeting of the state board, not beyond three months of the board's initial decision. Following a minimum of six months after the board's decision to deny approval, the institution may reapply when it is ready to show what actions have been taken to address the areas of suggested improvement.

Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program shall receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for licensure.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.6(256) Visiting teams. Upon application or reapplication for approval, a review team shall visit each institution for evaluation of its practitioner preparation program(s). When an institution offers off-campus practitioner preparation programs, the team may elect to include visits to some or all of the sites of the off-campus programs. The membership of the team shall be selected by the department with the concurrence of the institution being visited. The team may include faculty members of other practitioner preparation institutions; personnel from elementary and secondary schools, to include licensed practitioners; personnel of the state department of education; personnel of the board of educational examiners; and representatives from professional education organizations. Each team member should have appropriate competencies, background, and experiences to enable the member to contribute to the evaluation visit. The expenses for the review team shall be borne by the institution.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.7(256) Periodic reports. Upon request of the department, approved programs shall make periodic reports which shall provide basic information necessary to keep records of each practitioner preparation program up to date and to carry out research studies relating to practitioner preparation. The department may request that information be disaggregated by attendance center or delivery model or both.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.8(256) Reevaluation of practitioner preparation programs. Every seven years or at any time deemed necessary by the director, an institution shall file a written self-evaluation of its practitioner preparation programs to be followed by a review team visit. Any action for continued approval or rescission of approval shall be approved by the state board.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.9(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the curricula of an institution's approved practitioner preparation program. When an institution proposes a revision which exceeds the primary

scope of its programs, including revisions which significantly change the delivery model(s), the revisions shall become operative only after having been approved by the state board.
[ARC 8053B, IAB 8/26/09, effective 9/30/09]

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.10(256) Governance and resources standard. Governance and resources shall adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.10(1) A clearly understood governance structure provides guidance and support for the practitioner preparation program(s). Programs offered by various delivery models, including distance learning and off-campus models, are integrated appropriately into the governance structure of the institution.

79.10(2) The professional education unit has primary responsibility for all programs offered by the institution for the initial and continuing preparation of teachers, administrators and other professional school personnel.

79.10(3) The unit's conceptual framework establishes the shared vision for the unit and provides the foundation for coherence among curriculum, instruction, field experiences, clinical practice, assessment, and evaluation aligned with appropriate professional standards and best practice in classroom instruction and school leadership.

79.10(4) The work climate, policies, and assignments promote intellectual vitality, including best practices in teaching, scholarship and service among faculty.

79.10(5) The unit provides evidence of ongoing collaboration with the professional community, including evidence that there is an active advisory committee that, at a minimum, is solicited semiannually for program input to inform the unit.

79.10(6) When a unit is part of a college or university, the unit provides evidence of ongoing collaboration with other departments of the institution, especially regarding content endorsements.

79.10(7) Procedures for an appeals process for candidates and faculty are clearly communicated and provided to all candidates and faculty.

79.10(8) The unit administers a systematic and comprehensive evaluation system designed to enhance the teaching competence and intellectual vitality of the professional education unit.

79.10(9) The institution provides the commitment and resources necessary to support a quality clinical program for all practitioner candidates.

79.10(10) Institutional commitment to the unit includes financial resources, facilities, appropriate educational materials, library services, and equipment to ensure the fulfillment of the institution's and unit's missions, and the delivery of quality programs, regardless of delivery model.

79.10(11) The unit provides sufficient faculty, administrative, clerical, and technical staff to plan and deliver a quality practitioner program(s).

79.10(12) Resources are available to support professional development opportunities for faculty.

79.10(13) Resources are available to support technological and instructional needs to enhance candidate learning.

79.10(14) The use of part-time faculty and graduate students in teaching roles is purposeful and is managed to ensure integrity, quality, and continuity of all programs, including those delivered by distance learning, off-campus, and other delivery models.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.11(256) Diversity standard. The environment and experiences provided practitioner candidates shall support candidate growth in knowledge, skills, and dispositions to help all students learn in accordance with the following provisions. All provisions of this standard shall be demonstrated

appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.11(1) The institution and unit maintain a climate that supports diversity.

79.11(2) The institution and unit document their efforts in maintaining and increasing a diverse faculty and include teacher education candidates in plans, policies, and practices as required by the Higher Learning Commission.

79.11(3) Practitioner candidates experience clinical practices in settings that include diverse populations and students of different grade levels and of diverse learning needs.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.12(256) Faculty standard. Faculty qualifications and performance shall facilitate the professional development of practitioner candidates in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.12(1) Faculty members in professional education are adequately prepared for responsibilities assigned to them and have had experiences in situations similar to those for which the practitioner candidates are being prepared. Faculty members have experience and adequate preparation in effective methods for any model of program delivery in which they are assigned responsibilities.

79.12(2) Faculty members in all program delivery models instruct and model best practices in teaching, including the assessment of their own effectiveness as it relates to candidate performance.

79.12(3) Faculty members in all program delivery models are engaged in professional development as well as scholarly and service activities that relate to teaching, learning, and practitioner preparation.

79.12(4) Faculty members in all program delivery models collaborate regularly and in significant ways with colleagues in the professional education unit and other college/university units, schools, the department, area education agencies, and professional associations as well as with community representatives.

79.12(5) Part-time faculty members and employed graduate assistants in all program delivery models are identified as faculty members and meet the background and experience requirements appropriate for their assigned responsibilities.

79.12(6) Faculty members preparing in all program delivery models who prepare practitioner candidates maintain an ongoing, meaningful involvement in activities in preschools or elementary, middle, or secondary schools, in AEAs, or in appropriate facilities. A minimum of 60 hours of such activities shall include team teaching or appropriate collaborative experiences during the period between approval visits. A maximum of 30 hours of the 60-hour requirement may be completed by supervising candidates.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.13(256) Assessment system and unit evaluation standard. The unit's assessment system shall appropriately monitor individual candidate performance and use those data in concert with other information to evaluate and improve the unit and its programs. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.13(1) Unit assessment system.

a. The unit utilizes a clearly defined management system for the collection, analysis, and use of assessment data.

b. The unit provides evidence that the assessment system is congruent with the institution's mission and the unit's framework for preparation of effective practitioners.

c. The unit demonstrates an alignment of unit standards with INTASC standards for teacher preparation, ISSL standards for administrator preparation, and appropriate standards for other professional programs, as well as with Iowa teaching standards, Iowa preparation core professional

standards in subrule 79.15(7), and the Iowa board of educational examiners' licensing standards in 282—subrules 13.18(4), 13.18(5), 18.4(1), 18.4(2), and 18.9(1) and rule 282—18.10(272).

- d.* The unit clearly documents candidates' attainment of the unit standards.
- e.* The unit demonstrates propriety, utility, accuracy and fairness of both the overall assessment system and the instruments used and provides scoring rubrics or other criteria used in evaluation instruments.
- f.* The unit documents the quality of programs through the collective presentation of assessment data related to performance of practitioner candidates. Documentation shall include:
 - (1) Data collected throughout the program, including data from all delivery models;
 - (2) Evidence of evaluative data collected from practitioners who work with the unit's candidates;
 - (3) Evidence of evaluative data collected by the unit through follow-up studies of graduates and their employers.
- g.* The unit explains the process for reviewing and revising the assessment system.
- h.* The unit demonstrates how the information gathered by the unit and from the candidate assessment system is shared with faculty and other stakeholders and used for program improvement.

79.13(2) Performance assessment system for candidates.

- a.* The system is an integral part of the unit's planning and evaluation system.
- b.* The system has multiple admission criteria and assessments to identify candidates who have the potential to become successful practitioners.
- c.* For teacher preparation programs, the system includes the administration of a preprofessional skills test offered by a nationally recognized testing service, with program admission denied to any applicant who fails to achieve the institution's designated criterion score.
- d.* The system has multiple decision points. (Minimum: admission to professional education program; approval for student teaching, administrative field experience, or other culminating clinical experiences; and recommendation for licensure.)
- e.* The system includes a coherent, sequential assessment system for individual practitioner candidates. The assessment system is shared with faculty with guidance for course and program improvement, as well as assessment criteria and a process for ongoing feedback to practitioner candidates about their achievement of program standards with guidance for reflection and improvement. Data are drawn from multiple formative and summative assessments of each of the following, including, but not limited to, institutional assessment of content knowledge, professional knowledge, and pedagogical knowledge and their applications, and teaching or leadership performance including the effect on student learning.
- f.* Practitioner candidate performance is assessed at the same standard regardless of the place or manner in which the program is delivered.

79.13(3) The unit annually reports to the department such data as are required by the state and federal governments at dates determined by the department.

79.13(4) The department shall periodically conduct a survey of schools, agencies, or facilities that employ licensed graduates of approved programs to ensure that the graduates' needs are adequately met by their programs and by the approval process herein.

[ARC 8053B, IAB 8/26/09, effective 9/30/09; ARC 0476C, IAB 11/28/12, effective 1/2/13]

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION
PROGRAMS FOR TEACHER CANDIDATES

281—79.14(256) Teacher preparation clinical practice standard. The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.14(1) Candidates admitted to a teacher preparation program participate in field experiences including both observation and participation in teaching activities in a variety of school settings and totaling at least 80 hours' duration, with at least 10 hours occurring prior to acceptance into the program. A maximum of 40 hours of previous experience as a teacher or teaching associate may be credited toward the 80 hours if a program chooses to implement specific criteria for this option.

79.14(2) Clinical practice for teacher candidates supports the development of knowledge, dispositions, and skills that are identified in the unit standards. The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the conceptual framework of the program.

79.14(3) Programs document clinical expectations at various developmental levels throughout the program. These expectations are shared with candidates, supervisors, and cooperating teachers.

79.14(4) Environments for clinical practice support learning in context, and include all of the following:

- a. Scheduling and use of time and resources to allow candidates to participate with teachers and other practitioners and learners in the school setting.
- b. Teacher candidate learning that takes place in the context of providing high-quality instructional programs for children in a state-approved school or educational facility.
- c. Opportunities for teacher candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.
- d. The involvement of teacher candidates in assessment, planning and instruction as well as in activities directed toward the improvement of teaching and learning.

79.14(5) PK-12 school and college/university personnel share responsibility for the selection of cooperating teachers who demonstrate skills, knowledge, and dispositions of highly accomplished practitioners.

79.14(6) Cooperating teachers and college/university supervisors share responsibility for supervising the candidate's achievement of unit standards.

79.14(7) The unit is responsible for all of the following:

- a. Defining qualifications for practitioner candidates entering clinical practice.
- b. Providing quality supervision that includes primary responsibility for communication/collaboration with cooperating teachers and candidates.
- c. Responding to specific needs of cooperating schools.
- d. Implementing an evaluation process that assists in selecting quality cooperating teachers.

79.14(8) Teacher candidates develop and demonstrate the capacity to utilize assessment data in effecting student learning within their classrooms.

79.14(9) Accountability for student teaching experiences is demonstrated through all of the following:

- a. Involvement of the cooperating teacher in the continuous formative evaluation and support of practitioner candidates.
- b. Involvement of the college or university supervisor in the formative evaluation of practitioner candidates through a minimum of biweekly observations and consultations.
- c. Collaboration of the cooperating teacher and the college/university supervisor in determining areas for improvement, developing and implementing plans for improvement, and determining final evaluation of the student teacher.
- d. Use of written evaluation procedures, with completed evaluation forms included in practitioner candidates' permanent institutional records.

79.14(10) The student teaching experience for initial licensure meets all of the following:

- a. Includes full-time experience for a minimum of 14 consecutive weeks during the student's final year of the practitioner preparation program.
- b. Takes place in the classroom of an appropriately licensed cooperating teacher in the subject area and grade level endorsement desired.
- c. Consists of interactive experiences that involve college or university personnel, the student teacher, and the cooperating teacher.

d. Includes prescribed minimum expectations and responsibilities, including ethical behavior, for the student teacher.

e. Includes prescribed minimum expectations and responsibilities for cooperating teachers, the school district or accredited nonpublic school, and higher education supervising faculty members.

f. Requires the student teacher to become knowledgeable about the Iowa teaching standards and to experience a mock evaluation performed by the cooperating teacher or a person who holds an Iowa evaluator license (see rule 282—20.51(272) and Iowa Code section 284.10), which shall not be used as an assessment tool by the program.

g. Requires the student teacher to bear primary responsibility for planning and instruction within the classroom for a minimum of two weeks (ten school days).

h. Involves the student teacher in professional meetings and other school-based activities directed toward the improvement of teaching and learning.

i. Involves the student teacher in communication and interaction with parents or guardians of students in the student teacher's classroom.

79.14(11) The institution annually offers one or more workshops for all cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher other information and assistance the institution deems necessary. The cumulative instructional time for the workshops shall be one school day or the equivalent hours, and the workshops shall utilize delivery strategies identified as appropriate for staff development and reflect information gathered through feedback from workshop participants.

79.14(12) The institution shall enter into a written contract with each cooperating school providing clinical experiences, including field experiences and student teaching, as stipulated in Iowa Code section 272.27.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.15(256) Teacher preparation candidate knowledge, skills and dispositions standard. Teacher candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.15(1) Prior to admission to the teacher preparation program, each teacher candidate attains the qualifying score determined by the unit on a preprofessional skills test administered pursuant to paragraph 79.13(2) "c."

79.15(2) Each teacher candidate demonstrates the acquisition of a core of liberal arts knowledge, including but not limited to English composition, mathematics, natural sciences, social sciences, and humanities.

79.15(3) Each teacher candidate completes specific, dedicated coursework in human relations and cultural competency and thus demonstrates acquisition of knowledge about and skill in interpersonal and intergroup relations that contribute to the development of sensitivity to and understanding of the values, beliefs, life styles, and attitudes of individuals and the diverse groups found in a pluralistic society. The unit shall provide evidence that the human relations and cultural competency coursework is designed to develop the ability of participants to:

a. Be aware of and understand the values, life styles, history, and contributions of various identifiable subgroups in our society.

b. Recognize and deal with dehumanizing biases such as sexism, racism, prejudice, and discrimination and become aware of the impact that such biases have on interpersonal relations.

c. Translate knowledge of human relations into attitudes, skills, and techniques which will result in favorable learning experiences for students.

d. Recognize human diversity and the rights of each individual.

e. Relate effectively to other individuals and various subgroups other than one's own.

f. Have an awareness of federal and state civil rights legislation as it impacts students.

79.15(4) Each teacher candidate demonstrates, within specific coursework dedicated to understanding exceptional learners, in other coursework, and in clinical experiences, the necessary knowledge, skills, and dispositions toward meeting the learning needs of all students, including students from diverse ethnic, racial, and socioeconomic backgrounds, students with disabilities, students who are gifted and talented, English language learners, and students who may be at risk of not succeeding in school.

79.15(5) Each teacher candidate in elementary education demonstrates acquisition of knowledge about and receives preparation in elementary reading programs, including but not limited to reading recovery.

79.15(6) Each teacher candidate in secondary education demonstrates acquisition of knowledge about and receives preparation in the integration of reading strategies into secondary content areas.

79.15(7) Each teacher candidate demonstrates acquisition of the knowledge, skills and dispositions designated by the unit standards and aligned with the INTASC standards embedded in the professional education core for an Iowa teaching license at a level appropriate for a novice teacher. Each candidate exhibits competency in all of the following professional core curricula:

a. Content/subject matter specialization. The candidate demonstrates an understanding of the central concepts, tools of inquiry, and structure of the discipline(s) the candidate teaches and creates learning experiences that make these aspects of the subject matter meaningful for students. This is evidenced by a completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements. Each candidate must achieve a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area. Additionally, each elementary candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

These requirements shall become effective January 2, 2013.

b. Student learning. The candidate demonstrates an understanding of human growth and development and of how students learn and participates in learning opportunities that support intellectual, career, social and personal development.

c. Diverse learners. The candidate demonstrates an understanding of how students differ in their approaches to learning and creates instructional opportunities that are equitable and adaptable to diverse learners.

d. Instructional planning. The candidate plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

e. Instructional strategies. The candidate demonstrates an understanding of and an ability to use a variety of instructional strategies to encourage student development of critical and creative thinking, problem-solving, and performance skills.

f. Learning environment/classroom management. The candidate uses an understanding of individual and group motivation and behavior; creates a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation; maintains effective classroom management; and is prepared to address behaviors related to substance abuse and other high-risk behaviors.

g. Communication. The candidate uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

h. Assessment. The candidate understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the student, and effectively uses both formative and summative assessment of students, including student achievement data, to determine appropriate instruction.

i. Foundations, reflective practice and professional development. The candidate develops knowledge of the social, historical, and philosophical foundations of education. The candidate continually evaluates the effects of the candidate's choices and actions on students, parents, and other

professionals in the learning community; actively seeks out opportunities to grow professionally; and demonstrates an understanding of teachers as consumers of research and as researchers in the classroom.

j. Collaboration, ethics and relationships. The candidate fosters relationships with parents, school colleagues, and organizations in the larger community to support student learning and development; demonstrates an understanding of educational law and policy, ethics, and the profession of teaching, including the role of boards of education and education agencies; and demonstrates knowledge of and dispositions for cooperation with other educators, especially in collaborative/co-teaching as well as in other educational team situations.

k. Technology. The candidate effectively integrates technology into instruction to support student learning.

l. Methods of teaching. Methods of teaching have an emphasis on the subject and grade level endorsement desired.

79.15(8) Each teacher candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended, as well as standards developed by national professional organizations as appropriate for specific endorsement areas. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

79.15(9) Candidates seeking an endorsement in elementary education attain the state's designated criterion score on a content knowledge assessment as a condition precedent to successful program completion and recommendation for licensure.

79.15(10) Candidates seeking an initial Iowa teaching license demonstrate competency in coursework directly related to the Iowa core curriculum.

[ARC 8053B, IAB 8/26/09, effective 9/30/09; ARC 0476C, IAB 11/28/12, effective 1/2/13]

DIVISION IV

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

281—79.16(256) Administrator preparation clinical practice standard. The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.16(1) Clinical practice for administrator candidates supports the development of knowledge, dispositions, and skills that are identified in the unit standards. The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the conceptual framework of the program.

79.16(2) Each administrator candidate participates in field experiences that include both observation and involvement in management and leadership responsibilities. Programs document clinical expectations at various developmental levels. Clinical expectations are directly linked to coursework throughout the program, reflect collaboration among program faculty, and are shared with candidates, supervisors and cooperating administrators.

79.16(3) Environments for clinical practice support learning in context and include all of the following:

a. Scheduling and use of time and resources to allow candidates to participate with administrators and other practitioners and learners in the school setting.

b. Administrator candidate learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school or educational facility.

c. Opportunities for administrator candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.

d. The involvement of administrator candidates in relevant responsibilities directed toward the improvement of teaching and learning to include demonstration of the capacity to facilitate the use of formative and summative assessment data in effecting student learning within their schools.

79.16(4) The field experience component for initial administrator licensure meets all of the following requirements:

- a.* Includes experience for a minimum of 400 hours during each candidate's preparation program.
- b.* Takes place in multiple educational settings that include diverse populations and students of different age groups.
- c.* Takes place with appropriately licensed cooperating administrators.
- d.* Includes communication among institution personnel, the candidate, and the cooperating administrator regarding candidate progress.
- e.* Includes prescribed minimum expectations and responsibilities of the candidate for both leadership and managerial tasks as well as ethical behavior.
- f.* Includes minimum expectations and responsibilities for the participating entities: cooperating administrators, school districts, accredited nonpublic schools, AEAs, and higher education supervising faculty members.
- g.* Involves the candidate in professional meetings and other school-based activities directed toward the improvement of teaching and learning.
- h.* Involves the candidate in communication and interaction with parents or guardians, community members, faculty and staff, and the cooperating administrator in the school.

79.16(5) PK-12 school and institution professionals share responsibility for the selection of cooperating administrators who demonstrate skills, knowledge, and dispositions appropriate for administrator practitioners.

79.16(6) The unit is responsible for all of the following:

- a.* Defining qualifications for candidates entering clinical practice and for cooperating administrators who mentor candidates in their clinical experiences.
- b.* Providing quality supervision that includes primary responsibility for communication/collaboration with cooperating administrators and candidates.
- c.* Responding to specific needs of cooperating schools.
- d.* Selection, training, evaluation and support of institution faculty members who supervise administrator candidates.
- e.* Selection, training, evaluation and support of school administrators who mentor administrator candidates.

79.16(7) Each administrator candidate develops and demonstrates the capacity to utilize assessment data in effecting student learning within the candidate's school(s).

79.16(8) Accountability for field experiences is demonstrated through the following:

- a.* Collaboration between the cooperating administrator and the institution supervisors in formative evaluation of candidates to include identifying areas for improvement, developing and implementing plans for improvement, and determining final evaluation of the candidates.
- b.* Use of authentic performance measures appropriate to the required assignments in the clinical experiences, with written documentation and completed evaluation forms included in administrator candidates' permanent institutional records.

79.16(9) The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of cooperating administrators, build skills in coaching and mentoring, and provide cooperating administrators other information and assistance the institution deems necessary. The professional development opportunities shall utilize delivery strategies identified as appropriate for professional development and reflect information gathered through feedback from workshop participants.

79.16(10) The institution shall enter into a written contract with each cooperating school district or AEA that provides field experiences for administrator candidates as stipulated in Iowa Code section 272.27.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.17(256) Administrator candidate knowledge, skills and dispositions standard. Administrator candidates shall demonstrate the content knowledge and the pedagogical

and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.17(1) Each administrator candidate shall demonstrate through coursework the knowledge, skills and dispositions necessary to meet the following Iowa Standards for School Leaders (ISSL), at a level appropriate for a novice administrator:

a. Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community (ISSL Standard 1: Shared Vision). Each administrator candidate:

(1) In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.

(2) Uses research and best practices in improving the educational program.

(3) Articulates and promotes high expectations for teaching and learning.

(4) Aligns and implements the educational programs, plans, actions, and resources with the district's vision and goals.

(5) Provides leadership for major initiatives and change efforts.

(6) Communicates effectively to various stakeholders regarding progress with school improvement plan goals.

b. Advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development (ISSL Standard 2: Culture of Learning). Each administrator candidate:

(1) Provides leadership for assessing, developing and improving climate and culture.

(2) Systematically and fairly recognizes and celebrates accomplishments of staff and students.

(3) Provides leadership, encouragement, opportunities and structure for staff to continually design more effective teaching and learning experiences for all students.

(4) Monitors and evaluates the effectiveness of curriculum, instruction and assessment.

(5) Evaluates staff and provides ongoing coaching for improvement.

(6) Ensures that staff members receive professional development that directly enhances their performance and improves student learning.

(7) Uses current research and theory about effective schools and leadership to develop and revise the administrator's professional growth plan.

(8) Promotes collaboration with all stakeholders.

(9) Is easily accessible and approachable to all stakeholders.

(10) Is highly visible and engaged in the school community.

(11) Articulates the desired school culture and shows evidence about how it is reinforced.

c. Ensuring management of the organization, operations and resources for a safe, efficient and effective learning environment (ISSL Standard 3: Management). Each administrator candidate:

(1) Complies with state and federal mandates and local board policies.

(2) Recruits, selects, inducts, and retains staff to support quality instruction.

(3) Addresses current and potential issues in a timely manner.

(4) Manages fiscal and physical resources responsibly, efficiently, and effectively.

(5) Protects instructional time by designing and managing operational procedures to maximize learning.

(6) Communicates effectively with both internal and external audiences about the operations of the school.

d. Collaborating with families and community members, responding to diverse community interests and needs and mobilizing community resources (ISSL Standard 4: Family and Community). Each administrator candidate:

(1) Engages family and community by promoting shared responsibility for student learning and support of the education system.

(2) Promotes and supports a structure for family and community involvement in the education system.

(3) Facilitates the connections of students and families to the health and social services that support a focus on learning.

(4) Collaboratively establishes a culture that welcomes and honors families and community and seeks ways to engage them in student learning.

e. Acting with integrity, fairness and in an ethical manner (ISSL Standard 5: Ethics). Each administrator candidate:

(1) Demonstrates ethical and professional behavior.

(2) Demonstrates values, beliefs, and attitudes that inspire others to higher levels of performance.

(3) Fosters and maintains caring professional relationships with staff.

(4) Demonstrates appreciation for and sensitivity to diversity in the school community.

(5) Is respectful of divergent opinions.

f. Understanding the profile of the community and responding to, and influencing, the larger political, social, economic, legal and cultural context (ISSL Standard 6: Societal Context). Each administrator candidate:

(1) Collaborates with service providers and other decision makers to improve teaching and learning.

(2) Advocates for the welfare of all members of the learning community.

(3) Designs and implements appropriate strategies to reach desired goals.

79.17(2) Each new administrative candidate successfully completes the appropriate evaluator training based on the Iowa teaching standards and ISSL standards provided by a state-approved evaluator trainer.

79.17(3) Each administrator candidate demonstrates the knowledge, skills, and dispositions necessary to support the implementation of the Iowa core curriculum.

79.17(4) Each administrator candidate demonstrates acquisition of knowledge about and skill in interpersonal and intergroup relations that contribute to the development of sensitivity to and understanding of the values, beliefs, cultures, and attitudes of individuals and the diverse groups found in a pluralistic society. The program shall provide evidence of candidates' attainment of such knowledge and skills through the integration of these human relations and cultural competency issues within the program's coursework.

79.17(5) Each administrator candidate demonstrates, within specific coursework dedicated to understanding exceptional learners, in other coursework, and in clinical experiences, the knowledge, skills, and dispositions necessary to meet the learning needs of all students, including students from diverse ethnic, racial, and socioeconomic backgrounds, students with disabilities, students who are gifted and talented, English language learners, and students who may be at risk of not succeeding in school.

79.17(6) Each administrator candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended, as well as standards developed by national professional organizations as appropriate for specific endorsement areas. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.18 Reserved.

DIVISION V

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS
OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

281—79.19(256) Purpose. This division addresses preparation of an individual seeking a license based on school-centered preparation for employment as one of the following: school guidance counselor, school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor

of special education (support and orientation and mobility specialist). (See also the board of educational examiners' 282—Chapter 27, regarding licenses for service other than as a teacher.)
[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.20(256) Clinical practice standard. The unit and its school, AEA, and facility partners shall provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.20(1) Clinical practice for candidates supports the development of knowledge, dispositions, and skills that are identified in the unit standards. The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the conceptual framework of the program.

79.20(2) Candidates participate in clinical/field experiences that include both observation and involvement in professional responsibilities. Programs document clinical expectations at various developmental levels. Clinical expectations are directly linked to coursework throughout the program, reflect collaboration among program faculty, and are shared with candidates, supervisors and cooperating mentors.

79.20(3) Environments for clinical/field practice support learning in context and include all of the following:

- a. Scheduling and use of time and resources to allow candidates to participate with practitioners and learners in the school/agency/facility setting.
- b. Learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school, agency, or educational facility.
- c. Opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.
- d. The involvement of candidates in relevant responsibilities directed toward the work for which they are preparing.

79.20(4) PK-12 school, AEA, or facility professionals share responsibility for the selection of cooperating mentors who demonstrate appropriate skills, knowledge, and dispositions.

79.20(5) The unit is responsible for all of the following:

- a. Defining qualifications for candidates entering clinical practice and for cooperating mentors who support candidates in their clinical experiences.
- b. Providing quality supervision that includes primary responsibility for communication/collaboration with cooperating mentors and candidates.
- c. Responding to specific needs of cooperating schools and agencies.
- d. Selection, training, evaluation and support of institution faculty members who supervise candidates.

79.20(6) Accountability for clinical experiences is demonstrated through the following:

- a. Collaboration between the cooperating mentor and the college/university supervisors in formative evaluation of candidates to include identifying areas for improvement, developing and implementing plans for improvement, and determining final evaluation of the candidates.
- b. Use of authentic performance measures appropriate to the required assignments in the clinical experiences, with written documentation and completed evaluation forms included in candidates' permanent institutional records.

79.20(7) The institution shall enter into a written contract with each cooperating school district, AEA, or facility that provides field experiences for candidates as stipulated in Iowa Code section 272.27.
[ARC 8053B, IAB 8/26/09, effective 9/30/09]

281—79.21(256) Candidate knowledge, skills and dispositions standard. Candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the provisions of the appropriate professional standards. All provisions of this standard shall be demonstrated appropriately and equitably

for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.21(1) Each candidate demonstrates acquisition of knowledge about and skill in interpersonal and intergroup relations that contribute to the development of sensitivity to and understanding of the values, beliefs, cultures, and attitudes of individuals and the diverse groups found in a pluralistic society. The program shall provide evidence of candidates' attainment of such knowledge and skills through the integration of these human relations and cultural competency issues within the program's coursework.

79.21(2) Each candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended, including the professional service license. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

[ARC 8053B, IAB 8/26/09, effective 9/30/09]

These rules are intended to implement Iowa Code sections 256.7, 256.16 and 272.25(1).

[Filed 10/22/99, Notice 6/30/99—published 11/17/99, effective 8/31/01]

[Filed 8/10/01, Notice 4/18/01—published 9/5/01, effective 10/10/01]

[Filed 8/12/04, Notice 3/31/04—published 9/1/04, effective 10/6/04]

[Filed 9/17/07, Notice 6/6/07—published 10/10/07, effective 11/14/07]

[Filed ARC 8053B (Notice ARC 7780B, IAB 5/20/09), IAB 8/26/09, effective 9/30/09]

[Filed ARC 0476C (Notice ARC 0299C, IAB 8/22/12), IAB 11/28/12, effective 1/2/13]

PHYSICIAN ASSISTANTS

CHAPTER 326	LICENSURE OF PHYSICIAN ASSISTANTS
CHAPTER 327	PRACTICE OF PHYSICIAN ASSISTANTS
CHAPTER 328	CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS
CHAPTER 329	DISCIPLINE FOR PHYSICIAN ASSISTANTS

CHAPTER 326

LICENSURE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.2(148C) to 645—325.5(148C) and 645—325.16(148C)]

645—326.1(148C) Definitions.

“Active license” means a license that is current and has not expired.

“Approved program” means a program for the education of physician assistants which has been accredited by the American Medical Association’s Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Education Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor.

“Board” means the board of physician assistants.

“CME” means continuing medical education.

“Department” means the department of public health.

“Direction” means authoritative policy or procedural guidance for the accomplishment of a function or activity.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means a person licensed by the board as a physician assistant to provide medical services under the supervision of one or more physicians.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

“Locum tenens” means the temporary substitution of one licensed physician assistant for another.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“NCCPA” means the National Commission on Certification of Physician Assistants.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

“Physician assistant” means a person licensed as a physician assistant by the board.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—326.19(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Remote medical site” means a medical clinic for ambulatory patients which is away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time the site is open. “Remote medical site” will not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility).

“Supervising physician” means a physician who supervises the medical services provided by the physician assistant and who accepts ultimate responsibility for the medical care provided by the physician/physician assistant team.

“Supervision” means that a supervising physician retains ultimate responsibility for patient care, although a physician need not be physically present at each activity of the physician assistant or be specifically consulted before each delegated task is performed. Supervision shall not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C.

“Supply prescription drugs” means to deliver to a patient or the patient’s representative a quantity of prescription drugs or devices that are properly packaged and labeled.

645—326.2(148C) Requirements for licensure.

326.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Physician Assistants, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Board of Physician Assistants. The fees are nonrefundable.

d. Each applicant shall provide official copies of academic transcripts that have been sent to the board directly from an approved program for the education of physician assistants. EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

e. An applicant shall provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency.

f. Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

g. In lieu of paragraphs “d” and “e,” an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

326.2(2) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

326.2(3) Incomplete applications that have been on file in the board office for more than two years shall be:

- a.* Considered invalid and shall be destroyed; or
- b.* Maintained upon written request of the candidate.

645—326.3(148C) Temporary licensure.

326.3(1) A temporary license may be issued for an applicant who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

326.3(2) The applicant must comply with subrule 326.2(1), with the exception of paragraphs “d” and “e.”

326.3(3) A temporary license shall be valid for one year from the date of issuance.

326.3(4) The temporary license shall be renewed only once upon the applicant's showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination shall be submitted to the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

326.3(5) If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

326.3(6) There is no additional fee for converting temporary licensure to permanent licensure.

326.3(7) The applicant shall ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

645—326.4(148C) Licensure by endorsement. An applicant who has been licensed under the laws of another jurisdiction shall file an application for licensure by endorsement. An applicant shall:

326.4(1) Submit to the board a completed application according to the instructions on the application.

326.4(2) Pay the nonrefundable licensure fee.

326.4(3) Provide an official copy of the transcript sent directly to the board from an approved program for the education of physician assistants or qualify for the exception stated in paragraph 326.2(1) "d."

326.4(4) Provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency. Additionally, provide one of the following documents:

a. Copy of current certification from the NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency; or

b. Proof of completion of 100 CME hours for each biennium since initial certification.

326.4(5) Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

326.4(6) Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

645—326.5(148C) Licensure by reciprocal agreement. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.6(148C) Examination requirements. The applicant for licensure as a physician assistant shall successfully pass the certifying examination for physician assistants conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board.

645—326.7(148C) Educational qualifications. An applicant for licensure as a physician assistant shall submit official copies of academic transcripts from an approved program for education of physician assistants, or the applicant shall qualify for the exception stated in paragraph 326.2(1) "d."

645—326.8(148C) Supervision requirements.

326.8(1) Notification requirements. Physician assistants shall use the board-approved forms to notify the board of the identity of their supervising physicians at the following times:

a. Prior to beginning practice in Iowa.

b. At the time of license renewal. The physician assistant shall notify the board of the identity of each of the physician assistant's supervising physicians and of any change in the status of the supervisory relationships during the physician assistant's current biennium. In addition, the physician assistant shall maintain a list of supervising physicians to provide to the board upon request.

c. At the time of license reactivation.

326.8(2) The physician assistant shall maintain documentation of current supervising physicians, which shall be made available to the board upon request.

326.8(3) A physician assistant who provides medical services shall be supervised by one or more physicians; but a physician shall not supervise more than five physician assistants at the same time.

326.8(4) It shall be the responsibility of the physician assistant and a supervising physician to ensure that the physician assistant is adequately supervised. Upon agreeing to supervise a physician assistant, a supervising physician will be advised that the physician's name will be listed with the board as a supervising physician. In regard to scheduling, the physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or these rules, and must be in compliance with the requirement that no more than five physician assistants shall be supervised by a physician at the same time, pursuant to subrule 326.8(3). The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

a. Patient care provided by the physician assistant shall be reviewed with a supervising physician on an ongoing basis as indicated by the clinical condition of the patient. Although every chart need not be signed nor every visit reviewed, nor does the supervising physician need to be physically present at each activity of the physician assistant, it is the responsibility of the supervising physician and physician assistant to ensure that each patient has received the appropriate medical care.

b. Patient care provided by the physician assistant may be reviewed with a supervising physician in person, by telephone or by other telecommunicative means.

c. When signatures are required, electronic signatures are allowed if:

(1) The signature is transcribed by the signer into an electronic record and is not the result of electronic regeneration; and

(2) A mechanism exists allowing confirmation of the signature and protection from unauthorized reproduction.

d. When the physician assistant is being trained to perform new medical procedures, the training shall be carried out under the supervision of a physician or another qualified individual. Upon completing the supervised training, a physician assistant may perform the new medical procedures if delegated by a supervising physician, except as otherwise provided in Iowa Code chapter 148C or these rules. New medical procedures may be delegated to a physician assistant after a supervising physician determines that the physician assistant is competent to perform the task.

[ARC 0462C, IAB 11/28/12, effective 1/2/13]

645—326.9(148C) License renewal.

326.9(1) The biennial license renewal period for a license to practice as a physician assistant shall begin on October 1 and end on September 30 two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

326.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

326.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—328.2(148C) and the mandatory reporting requirements of subrule 326.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

326.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment responsibilities, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

Training may be completed through separate courses as identified in paragraphs “*a*” and “*b*” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 328.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

326.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

326.9(6) A person licensed to practice as a physician assistant shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

326.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 330.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

326.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9665B, IAB 8/10/11, effective 9/14/11]

645—326.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—326.11(272C) Lapsed license. Rescinded IAB 8/17/05, effective 9/21/05.

645—326.12(147) Duplicate certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.13(147) Reissued certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.14(272C) License denial. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.15(148C) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words “physician assistant” after the person’s name or signify the same by the use of the letters “PA.”

645—326.16(148C) Address change. The physician assistant shall notify the board of any change in permanent address within 30 days of its occurrence.

645—326.17(148C) Student physician assistant.

326.17(1) Any person who is enrolled as a student in an approved program shall comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

326.17(2) Notwithstanding any other provisions of these rules, a student may perform medical services when they are rendered within the scope of an approved program.

645—326.18(148C) Recognition of an approved program. The board shall recognize a program for education and training of physician assistants if it is accredited by the American Medical Association’s Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Educational Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor.

This rule is intended to implement Iowa Code section 148C.2.

645—326.19(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

326.19(1) Submit a reactivation application on a form provided by the board.

326.19(2) Pay the reactivation fee that is due as specified in 645—Chapter 330.

326.19(3) Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification; and

(3) Information on each supervising physician.

645—326.20(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 326.19(17A,147,272C) prior to practicing as a physician assistant in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148C and 272C.

[Filed 7/19/02, Notice 4/3/02—published 8/7/02, effective 9/11/02]

[Filed emergency 7/18/03—published 8/6/03, effective 7/18/03]

[Filed 4/22/04, Notice 2/18/04—published 5/12/04, effective 6/16/04]^{◇1}

[Filed 1/19/05, Notice 11/10/04—published 2/16/05, effective 3/23/05]

[Filed 7/21/05, Notice 5/11/05—published 8/17/05, effective 9/21/05]

[Filed 4/20/06, Notice 2/15/06—published 5/10/06, effective 6/14/06]

[Filed 1/18/07, Notice 11/8/06—published 2/14/07, effective 3/21/07]

[Filed 2/5/07, Notice 11/8/06—published 2/28/07, effective 4/4/07]

[Filed 10/19/07, Notice 8/15/07—published 11/7/07, effective 12/12/07]

[Filed 7/17/08, Notice 5/7/08—published 8/13/08, effective 9/17/08]

[Filed ARC 9665B (Notice ARC 9549B, IAB 6/1/11), IAB 8/10/11, effective 9/14/11]

[Filed ARC 0462C (Notice ARC 0283C, IAB 8/22/12), IAB 11/28/12, effective 1/2/13]

[◇] Two or more ARCs

¹ Effective date of 326.1, “remote medical site,” delayed 70 days by the Administrative Rules Review Committee at its meeting held June 7, 2004.

DENTAL BOARD[650]

[Prior to 5/18/88, Dental Examiners, Board of[320]]

TITLE I
*GENERAL PROVISIONS*CHAPTER 1
ADMINISTRATION

- 1.1(153) Definitions
- 1.2(17A,147,153,272C) Purpose of the board
- 1.3(17A,147,153) Organization of the board
- 1.4(153) Organization of the dental hygiene committee
- 1.5(17A,153) Information
- 1.6(17A,147,153) Meetings

CHAPTERS 2 to 4
ReservedTITLE II
*ADMINISTRATION*CHAPTER 5
ReservedCHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

- 6.1(153,147,22) Definitions
- 6.3(153,147,22) Requests for access to records
- 6.6(153,147,22) Procedure by which additions, dissents, or objections may be entered into certain records
- 6.9(153,147,22) Disclosures without the consent of the subject
- 6.10(153,147,22) Routine use
- 6.11(153,147,22) Consensual disclosure of confidential records
- 6.12(153,147,22) Release to subject
- 6.13(153,147,22) Availability of records
- 6.14(153,147,22) Personally identifiable information
- 6.15(153,147,22) Other groups of records
- 6.16(153,147,22) Data processing system
- 6.17(153,147,22) Purpose and scope

CHAPTER 7
RULES

- 7.1(17A,147,153) Petition for rule making
- 7.2(17A,147,153) Oral presentations for rule making
- 7.3 Reserved
- 7.4(17A,147,153) Waivers
- 7.5(17A,147,153) Sample petition for waiver

CHAPTER 8
SALE OF GOODS AND SERVICES

- 8.1(68B) Selling of goods or services by members of the board
- 8.2(68B) Conditions of consent for members

CHAPTER 9
DECLARATORY ORDERS

- 9.1(17A) Petition for declaratory order
- 9.2(17A) Notice of petition
- 9.3(17A) Intervention
- 9.4(17A) Briefs
- 9.5(17A) Inquiries
- 9.6(17A) Service and filing of petitions and other papers
- 9.7(17A) Consideration
- 9.8(17A) Action on petition
- 9.9(17A) Refusal to issue order
- 9.10(17A) Contents of declaratory order—effective date
- 9.11(17A) Copies of orders
- 9.12(17A) Effect of a declaratory order

TITLE III
LICENSING

CHAPTER 10
GENERAL REQUIREMENTS

- 10.1(153) Licensed or registered personnel
- 10.2(147,153) Display of license, registration, permit, and renewal
- 10.3(153) Authorized practice of a dental hygienist
- 10.4(153) Unauthorized practice of a dental hygienist
- 10.5(153) Public health supervision allowed
- 10.6(147,153,272C) Other requirements

CHAPTER 11
LICENSURE TO PRACTICE DENTISTRY OR DENTAL HYGIENE

- 11.1(147,153) Applicant responsibilities
- 11.2(147,153) Dental licensure by examination
- 11.3(153) Dental licensure by credentials
- 11.4(153) Graduates of foreign dental schools
- 11.5(147,153) Dental hygiene licensure by examination
- 11.6(153) Dental hygiene licensure by credentials
- 11.7(147,153) Dental hygiene application for local anesthesia permit
- 11.8(147,153) Review of applications
- 11.9(147,153) Grounds for denial of application
- 11.10(147) Denial of licensure—appeal procedure
- 11.11(252J,261) Receipt of certificate of noncompliance

CHAPTER 12
DENTAL AND DENTAL HYGIENE EXAMINATIONS

- 12.1(147,153) Clinical examination procedure for dentistry
- 12.2(147,153) System of retaking dental examinations
- 12.3(147,153) Clinical examination procedure for dental hygiene
- 12.4(147,153) System of retaking dental hygiene examinations

CHAPTER 13
SPECIAL LICENSES

- 13.1(153) Resident license
- 13.2(153) Dental college and dental hygiene program faculty permits
- 13.3(153) Temporary permit

CHAPTER 14
RENEWAL AND REINSTATEMENT

- 14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene
- 14.2(153) Renewal of registration as a dental assistant
- 14.3(136C,153) Renewal of dental assistant radiography qualification
- 14.4(147,153,272C) Grounds for nonrenewal
- 14.5(147,153,272C) Late renewal
- 14.6(147,153,272C) Reinstatement of a lapsed license or registration
- 14.7(136C,153) Reinstatement of lapsed radiography qualification

CHAPTER 15
FEES

- 15.1(147,153) Establishment of fees
- 15.2(147,153) Definitions
- 15.3(153) Application fees
- 15.4(153) Renewal fees
- 15.5(153) Late renewal fees
- 15.6(147,153) Reinstatement fees
- 15.7(153) Miscellaneous fees
- 15.8(153) Continuing education fees
- 15.9(153) Facility inspection fee
- 15.10(22,147,153) Public records
- 15.11(22,147,153) Purchase of a mailing list or data list
- 15.12(147,153) Returned checks
- 15.13(147,153,272C) Copies of the laws and rules
- 15.14(17A,147,153,272C) Waiver prohibited

CHAPTER 16
PRESCRIBING, ADMINISTERING, AND DISPENSING DRUGS

- 16.1(124,153,155A) Definitions
- 16.2(153) Scope of authority
- 16.3(153) Purchasing, administering, and dispensing of controlled substances
- 16.4(153) Dispensing—requirements for containers and labeling
- 16.5(153) Identifying information on prescriptions
- 16.6(153) Transmission of prescriptions
- 16.7(153) Emergency prescriptions

CHAPTERS 17 to 19
Reserved

TITLE IV
AUXILIARY PERSONNEL

CHAPTER 20
DENTAL ASSISTANTS

- 20.1(153) Registration required
- 20.2(153) Definitions
- 20.3(153) Scope of practice
- 20.4(153) Categories of dental assistants: dental assistant trainee, registered dental assistant
- 20.5(153) Registration requirements prior to July 2, 2001
- 20.6(153) Registration requirements after July 1, 2001
- 20.7(153) Registration denial
- 20.8(147,153) Denial of registration—appeal procedure
- 20.9(153) Examination requirements

20.10(153)	System of retaking dental assistant examinations
20.11(153)	Continuing education
20.12(252J,261)	Receipt of certificate of noncompliance
20.13(153)	Unlawful practice
20.14(153)	Advertising and soliciting of dental services prohibited
20.15(153)	Expanded function training approval

CHAPTER 21

DENTAL LABORATORY TECHNICIAN

21.1(153)	Definition
21.2(153)	Unlawful practice by dental laboratory technician
21.3(153)	Advertising and soliciting dental services prohibited

CHAPTER 22

DENTAL ASSISTANT RADIOGRAPHY QUALIFICATION

22.1(136C,153)	Qualification required
22.2(136C,153)	Definitions
22.3(136C,153)	Exemptions
22.4(136C,153)	Application requirements for dental radiography qualification
22.5(136C,153)	Examination requirements
22.6(136C,153)	Penalties

CHAPTERS 23 and 24

Reserved

TITLE V

PROFESSIONAL STANDARDS

CHAPTER 25

CONTINUING EDUCATION

25.1(153)	Definitions
25.2(153)	Continuing education requirements
25.3(153)	Approval of programs and activities
25.4(153)	Approval of sponsors
25.5(153)	Review of programs or sponsors
25.6(153)	Hearings
25.7(153)	Extensions and exemptions
25.8(153)	Exemptions for inactive practitioners
25.9(153)	Reinstatement of inactive practitioners
25.10(153)	Noncompliance with continuing dental education requirements
25.11(153)	Dental hygiene continuing education

CHAPTER 26

ADVERTISING

26.1(153)	General
26.2(153)	Requirements
26.3(153)	Fees
26.4(153)	Public representation
26.5(153)	Responsibility
26.6(153)	Advertisement records

CHAPTER 27
STANDARDS OF PRACTICE AND
PRINCIPLES OF PROFESSIONAL ETHICS

- 27.1(153) General
- 27.2(153,272C) Patient acceptance
- 27.3(153) Emergency service
- 27.4(153) Consultation and referral
- 27.5(153) Use of personnel
- 27.6(153) Evidence of incompetent treatment
- 27.7(153) Representation of care and fees
- 27.8(153) General practitioner announcement of services
- 27.9(153) Unethical and unprofessional conduct
- 27.10(153) Retirement or discontinuance of practice
- 27.11(153,272C) Record keeping
- 27.12(17A,147,153,272C) Waiver prohibited

CHAPTER 28
DESIGNATION OF SPECIALTY

- 28.1(153) General review
- 28.2(153) Dental public health
- 28.3(153) Endodontics
- 28.4(153) Oral and maxillofacial pathology
- 28.5(153) Oral and maxillofacial surgery
- 28.6(153) Orthodontics and dentofacial orthopedics
- 28.7(153) Pediatric dentistry
- 28.8(153) Periodontics
- 28.9(153) Prosthodontics
- 28.10(153) Oral and maxillofacial radiology

CHAPTER 29
SEDATION AND NITROUS OXIDE INHALATION ANALGESIA

- 29.1(153) Definitions
- 29.2(153) Prohibitions
- 29.3(153) Requirements for the issuance of deep sedation/general anesthesia permits
- 29.4(153) Requirements for the issuance of moderate sedation permits
- 29.5(153) Permit holders
- 29.6(153) Nitrous oxide inhalation analgesia
- 29.7(153) Minimal sedation
- 29.8(153) Noncompliance
- 29.9(153) Reporting of adverse occurrences related to sedation, nitrous oxide inhalation analgesia, and antianxiety premedication
- 29.10(153) Anesthesia credentials committee
- 29.11(153) Renewal
- 29.12(153) Rules for denial or nonrenewal
- 29.13(153) Record keeping

TITLE VI
PROFESSIONAL REGULATION

CHAPTER 30
DISCIPLINE

- 30.1(153) General
- 30.2(153) Methods of discipline
- 30.3(153) Discretion of board

- 30.4(147,153,272C) Grounds for discipline
- 30.5(153) Impaired practitioner review committee

CHAPTER 31

COMPLAINTS AND INVESTIGATIONS

- 31.1(272C) Complaint review
- 31.2(153) Form and content
- 31.3(153) Address
- 31.4(153) Investigation
- 31.5(153) Issuance of investigatory subpoenas
- 31.6(153) Board appearances
- 31.7(153) Peer review
- 31.8(272C) Duties of peer review committees
- 31.9(272C) Board review
- 31.10(272C) Confidentiality of investigative files
- 31.11(272C) Reporting of judgments or settlements
- 31.12(272C) Investigation of reports of judgments and settlements
- 31.13(272C) Mandatory reporting
- 31.14 Reserved
- 31.15(272C) Immunities

CHAPTER 32

MEDIATION OF DISPUTES

- 32.1(153) Definitions
- 32.2(153) Mediation authorized
- 32.3(153) Mediation process
- 32.4(153) Assignment of mediator
- 32.5(153) Cancellation
- 32.6(153) Mediation meetings
- 32.7(153) Mediation report
- 32.8(679) Mediation agreement
- 32.9(679) Mediation confidential
- 32.10(679) Mediator immunity

TITLES VII TO X

CHAPTER 33

CHILD SUPPORT NONCOMPLIANCE

- 33.1(252J,598) Definitions
- 33.2(252J,598) Issuance or renewal of a license or registration—denial
- 33.3(252J,598) Suspension or revocation of a license or registration

CHAPTER 34

STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

- 34.1(261) Definitions
- 34.2(261) Issuance or renewal of a license or registration—denial
- 34.3(261) Suspension or revocation of a license or registration

CHAPTER 35

IOWA PRACTITIONER REVIEW COMMITTEE

- 35.1(153,272C) Iowa practitioner review committee
- 35.2(272C) Board referrals to the Iowa practitioner review committee

CHAPTER 36
NONPAYMENT OF STATE DEBT

36.1(272D)	Definitions
36.2(272D)	Issuance or renewal of a license—denial
36.3(272D)	Suspension or revocation of a license
36.4(272D)	Sharing of information

CHAPTERS 37 to 50
Reserved

CHAPTER 51
CONTESTED CASES

51.1(17A)	Scope and applicability
51.2(17A)	Definitions
51.3(17A)	Probable cause
51.4(17A)	Legal review
51.5(17A)	Time requirements
51.6(17A)	Statement of charges and notice of hearing
51.7(17A)	Legal representation
51.8(17A)	Presiding officer in a disciplinary contested case
51.9(17A)	Presiding officer in a nondisciplinary contested case
51.10(17A)	Disqualification
51.11(17A)	Consolidation—severance
51.12(17A)	Pleadings
51.13(17A)	Service and filing
51.14(17A)	Discovery
51.15(17A,272C)	Issuance of subpoenas in a contested case
51.16(17A)	Motions
51.17(17A)	Prehearing conference
51.18(17A)	Continuances
51.19(17A)	Settlements
51.20(17A)	Hearing procedures
51.21(17A)	Evidence
51.22(17A)	Default
51.23(17A)	Ex parte communication
51.24(17A)	Recording costs
51.25(17A)	Interlocutory appeals
51.26(17A)	Proposed and final decision
51.27(17A)	Applications for rehearing
51.28(17A)	Stays of board actions
51.29(17A)	No factual dispute contested cases
51.30(17A)	Emergency adjudicative proceedings
51.31(153)	Judicial review
51.32(17A)	Notification of decision
51.33(17A)	Publicizing disciplinary action
51.34(153)	Reinstatement
51.35(272C)	Disciplinary hearings—fees and costs

TITLE IV
AUXILIARY PERSONNELCHAPTER 20
DENTAL ASSISTANTS

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—20.1(153) Registration required. A person shall not practice on or after July 1, 2001, as a dental assistant unless the person has registered with the board and received a certificate of registration pursuant to this chapter.

650—20.2(153) Definitions. As used in this chapter:

“Dental assistant” means any person who, under the supervision of a dentist, performs any extraoral services including infection control or the use of hazardous materials or performs any intraoral services on patients. The term “dental assistant” does not include persons otherwise actively licensed in Iowa to practice dental hygiene or nursing who are engaged in the practice of said profession.

“Direct supervision” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room while the registered dental assistant is performing acts assigned by the dentist.

“General supervision” means that a dentist has delegated the services to be provided by a registered dental assistant. The dentist need not be present in the facility while these services are being provided.

“Personal supervision” means the dentist is physically present in the treatment room to oversee and direct all intraoral or chairside services of the dental assistant and a licensee or registrant is physically present to oversee and direct all extraoral services of the dental assistant.

“Trainee status expiration date” means the date established by the board office which is 12 months from a person’s first date of employment as a dental assistant. The trainee status expiration date is the date by which a trainee must successfully complete requirements and become registered as a dental assistant, pursuant to Iowa Code section 153.39.

[ARC 8369B, IAB 12/16/09, effective 1/20/10; ARC 0465C, IAB 11/28/12, effective 1/2/13]

650—20.3(153) Scope of practice.

20.3(1) In all instances, a dentist assumes responsibility for determining, on the basis of diagnosis, the specific treatment patients will receive and which aspects of treatment may be delegated to qualified personnel as authorized in these rules.

20.3(2) A licensed dentist may delegate to a dental assistant those procedures for which the dental assistant has received training. This delegation shall be based on the best interests of the patient. The dentist shall exercise supervision and shall be fully responsible for all acts performed by a dental assistant. A dentist may not delegate to a dental assistant any of the following:

- a. Diagnosis, examination, treatment planning, or prescription, including prescription for drugs and medicaments or authorization for restorative, prosthodontic or orthodontic appliances.
- b. Surgical procedures on hard and soft tissues within the oral cavity and any other intraoral procedure that contributes to or results in an irreversible alteration to the oral anatomy.
- c. Administration of local anesthesia.
- d. Placement of sealants.
- e. Removal of any plaque, stain, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish, or removal of any calculus.
- f. Dental radiography, unless the assistant is qualified pursuant to 650—Chapter 22.
- g. Those procedures that require the professional judgment and skill of a dentist.

20.3(3) A dentist may delegate an expanded function duty to a registered dental assistant if the assistant has completed board-approved training pursuant to rule 650—20.16(153) in the specific expanded function that will be delegated. The supervising dentist and registered dental assistant shall be responsible for maintaining in the office of practice documentation of board-approved training. In addition to the other duties authorized under this rule, a dentist may delegate any of the following expanded function duties:

- a. Taking occlusal registrations;
- b. Placement and removal of gingival retraction;
- c. Taking final impressions;
- d. Fabrication and removal of provisional restorations;
- e. Applying cavity liners and bases, desensitizing agents, and bonding systems;
- f. Placement and removal of dry socket medication;
- g. Placement of periodontal dressings;
- h. Testing pulp vitality; and
- i. Monitoring of nitrous oxide inhalation analgesia.

20.3(4) A dental assistant may perform duties consistent with these rules under the supervision of a licensed dentist. The specific duties dental assistants may perform are based upon:

- a. The education of the dental assistant.
- b. The experience of the dental assistant.

650—20.4(153) Categories of dental assistants: dental assistant trainee, registered dental assistant. There are two categories of dental assistants. Both the supervising dentist and dental assistant are responsible for maintaining documentation of training. Such documentation must be maintained in the office of practice and shall be provided to the board upon request.

20.4(1) Dental assistant trainee. Dental assistant trainees are all individuals who are engaging in on-the-job training to meet the requirements for registration and who are learning the necessary skills under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to 650—22.3(136C,153).

a. *General requirements.* The dental assistant trainee shall meet the following requirements:

(1) Prior to the trainee status expiration date, the dental assistant trainee shall successfully complete a course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study shall be prior approved by the board and sponsored by a board-approved postsecondary school.

(2) Prior to the trainee status expiration date, the trainee must apply to the board office to be reclassified as a registered dental assistant.

(3) If a trainee fails to become registered by the trainee status expiration date, the trainee must stop work as a dental assistant.

b. *New trainee application required if trainee not registered prior to trainee status expiration date.* Pursuant to Iowa Code section 153.39, a person employed as a dental assistant has a 12-month period following the person's first date of employment to become registered. If not registered by the trainee status expiration date, the trainee must stop work as a dental assistant and reapply for trainee status.

(1) Reapplying for trainee status. A trainee may "start over" as a dental assistant trainee provided the trainee submits an application in compliance with subrule 20.6(1).

(2) Examination scores valid for three years. A "repeat" trainee is not required to retake an examination (jurisprudence, infection control/hazardous materials, radiography) if the trainee has successfully passed the examination within three years of the date of application. If a trainee has failed two or more examinations, the trainee must satisfy the remedial education requirements in subrule 20.10(1). The trainee status application will not be approved until the trainee successfully completes any required remedial education.

(3) New trainee status expiration date issued. If the repeat trainee application is approved, the board office will establish a new trainee status expiration date by which registration must be completed.

(4) Maximum of two "start over" periods allowed. In addition to the initial 12-month trainee status period, a dental assistant is permitted up to two start over periods as a trainee. If a trainee seeks an additional start over period beyond two, the trainee shall submit a petition for rule waiver under 650—Chapter 7.

c. *Trainees enrolled in cooperative education or work study programs.* The requirements stated in this subrule apply to all dental assistant trainees, including a person enrolled in a cooperative education

or work-study program through an Iowa high school. In addition, a trainee under 18 years of age shall not participate in dental radiography.

20.4(2) *Registered dental assistant.* A registered dental assistant may perform under general supervision dental radiography, intraoral suctioning, and all extraoral duties that are assigned by the dentist and are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

[ARC 0465C, IAB 11/28/12, effective 1/2/13]

650—20.5(153) Registration requirements prior to July 2, 2001.

20.5(1) A person employed as a dental assistant as of July 1, 2001, shall be registered with the board as a registered dental assistant without meeting the application requirements specified in 650—20.6(153), provided the application is postmarked by July 1, 2001.

20.5(2) Applications for registration prior to July 2, 2001, must be filed on official board forms and include the following:

- a. The fee as specified in 650—Chapter 15.
- b. Evidence of current employment as a dental assistant as demonstrated by a signed statement from the applicant's employer.
- c. Evidence of current certification in dental radiography pursuant to 650—Chapter 22 if engaging in dental radiography.

20.5(3) Applications must be signed and verified by the applicant as to the truth of the documents and statements contained therein.

650—20.6(153) Registration requirements after July 1, 2001. Effective July 2, 2001, dental assistants must meet the following requirements for registration:

20.6(1) Dental assistant trainee.

a. On or after May 1, 2013, a dentist supervising a person performing dental assistant duties must ensure that the person has been issued a trainee status certificate from the board office prior to the person's first date of employment as a dental assistant. A dentist who has been granted a temporary permit to provide volunteer services for a qualifying event of limited duration pursuant to 650—subrule 13.3(3), or an Iowa-licensed dentist who is volunteering at such qualifying event, is exempt from this requirement for a dental assistant who is working under the dentist's supervision at the qualifying event.

b. Applications for registration as a dental assistant trainee must be filed on official board forms and include the following:

- (1) The fee as specified in 650—Chapter 15.
- (2) Evidence of high school graduation or equivalent.
- (3) Evidence the applicant is 17 years of age or older.
- (4) Any additional information required by the board relating to the character and experience of the applicant as may be necessary to evaluate the applicant's qualifications.
- (5) If the applicant does not meet the requirements of (2) and (3) above, evidence that the applicant is enrolled in a cooperative education or work-study program through an Iowa high school.

c. Prior to the trainee status expiration date, the dental assistant trainee is required to successfully complete a board-approved course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved postsecondary school or on the job using curriculum approved by the board for such purpose. Evidence of meeting this requirement prior to the trainee status expiration date shall be submitted by the employer dentist.

d. Prior to the trainee status expiration date, the dental assistant trainee's supervising dentist must ensure that the trainee has received a certificate of registration before performing any further dental assisting duties.

20.6(2) Registered dental assistant.

- a. To meet this qualification, a person must:

(1) Work in a dental office for six months as a dental assistant trainee; or
(2) If licensed out of state, have had at least six months of prior dental assisting experience under a licensed dentist within the past two years; or

- (3) Be a graduate of an accredited dental assisting program approved by the board; and
(4) Be a high school graduate or equivalent; and
(5) Be 17 years of age or older.

b. Applications for registration as a registered dental assistant must be filed on official board forms and include the following:

(1) The fee as specified in 650—Chapter 15.
(2) Evidence of meeting the requirements specified in 20.6(2) “a.”
(3) Evidence of successful completion of a course of study approved by the board and sponsored by a board-approved, accredited dental assisting program in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved, accredited dental assisting program or on the job using curriculum approved by the board for such purpose.

(4) Evidence of successful completion of a board-approved examination in the areas of infection control, hazardous materials, and jurisprudence.

(5) Evidence of high school graduation or the equivalent.

(6) Evidence the applicant is 17 years of age or older.

(7) Evidence of meeting the qualifications of 650—Chapter 22 if engaging in dental radiography.

(8) A statement:

1. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

2. Providing the expiration date of the CPR certificate; and

3. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

(9) Any additional information required by the board relating to the character, education and experience of the applicant as may be necessary to evaluate the applicant’s qualifications.

20.6(3) Rescinded IAB 9/17/03, effective 10/22/03.

20.6(4) All applications must be signed and verified by the applicant as to the truth of the documents and statements contained therein.

[ARC 8369B, IAB 12/16/09, effective 1/20/10; ARC 0265C, IAB 8/8/12, effective 9/12/12; ARC 0465C, IAB 11/28/12, effective 1/2/13]

650—20.7(153) Registration denial. The board may deny an application for registration as a dental assistant for any of the following reasons:

1. Failure to meet the requirements for registration as specified in these rules.

2. Pursuant to Iowa Code section 147.4, upon any of the grounds for which registration may be revoked or suspended as specified in 650—Chapter 30.

650—20.8(147,153) Denial of registration—appeal procedure. The board shall follow the procedures specified in 650—11.10(147) if the board proposes to deny registration to a dental assistant applicant.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

[ARC 7789B, IAB 5/20/09, effective 6/24/09]

650—20.9(153) Examination requirements. Beginning July 2, 2001, applicants for registration must successfully pass an examination approved by the board on infection control, hazardous waste, and jurisprudence.

20.9(1) Examinations approved by the board are those administered by the board or board’s approved testing centers or the Dental Assisting National Board Infection Control Examination, if taken after June 1, 1991, in conjunction with the board-approved jurisprudence examination. In lieu of the board’s infection control examination, the board may approve an infection control examination given by another state licensing board if the board determines that the examination is substantially equivalent to the examination administered by the board.

20.9(2) Information on taking the examination may be obtained by contacting the board office at 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

20.9(3) An examinee must meet such other requirements as may be imposed by the board's approved dental assistant testing centers.

20.9(4) A dental assistant trainee must successfully pass the examination within 12 months of the first date of employment. A dental assistant trainee who does not successfully pass the examination within 12 months shall be prohibited from working as a dental assistant until the dental assistant trainee passes the examination in accordance with these rules.

20.9(5) A score of 75 or better on the board infection control/hazardous material exam and a score of 75 or better on the board jurisprudence exam shall be considered successful completion of the examination. The board accepts the passing standard established by the Dental Assisting National Board for applicants who take the Dental Assisting National Board Infection Control Examination.

20.9(6) The written examination may be waived by the board, in accordance with the board's waiver rules at 650—Chapter 7, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist's practice.

650—20.10(153) System of retaking dental assistant examinations.

20.10(1) *Second examination.*

a. On the second examination attempt, a dental assistant shall be required to obtain a score of 75 percent or better on each section of the examination.

b. A dental assistant who fails the second examination will be required to complete the remedial education requirements set forth in subrule 20.10(2).

20.10(2) *Third and subsequent examinations.*

a. Prior to the third examination attempt, a dental assistant must submit proof of additional formal education in the area of the examination failure in a program approved by the board or sponsored by a school accredited by the Commission on Dental Accreditation of the American Dental Association.

b. A dental assistant who fails the examination on the third attempt may not practice as a dental assistant in a dental office or clinic until additional remedial education approved by the board has been obtained.

c. For the purposes of additional study prior to retakes, the fourth or subsequent examination failure shall be considered the same as the third.

650—20.11(153) Continuing education. Beginning July 1, 2001, each person registered as a dental assistant shall complete 20 hours of continuing education approved by the board during the biennium period as a condition of registration renewal.

20.11(1) At least two continuing education hours must be in the subject area of infection control.

20.11(2) A maximum of three hours may be in cardiopulmonary resuscitation.

20.11(3) For dental assistants who have radiography qualification, at least two hours of continuing education must be obtained in the subject area of radiography.

20.11(4) For the renewal period July 1, 2001, to June 30, 2003, at least one hour of continuing education must be obtained in the subject area of jurisprudence.

[ARC 0265C, IAB 8/8/12, effective 9/12/12]

650—20.12(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 or receipt of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33. Registration denial or denial of renewal of registration shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J and sections 261.121 to 261.127.

[ARC 0265C, IAB 8/8/12, effective 9/12/12]

650—20.13(153) Unlawful practice. A dental assistant who assists a dentist in practicing dentistry in any capacity other than as a person supervised by a dentist in a dental office, or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental assistant to engage directly or indirectly in the practice of dentistry, or who performs dental service directly or indirectly on or for members of the public other than as a person working for a dentist shall be deemed to be practicing dentistry without a license.

[ARC 0265C, IAB 8/8/12, effective 9/12/12]

650—20.14(153) Advertising and soliciting of dental services prohibited. Dental assistants shall not advertise, solicit, represent or hold themselves out in any manner to the general public that they will furnish, construct, repair or alter prosthetic, orthodontic or other appliances, with or without consideration, to be used as substitutes for or as part of natural teeth or associated structures or for the correction of malocclusions or deformities, or that they will perform any other dental service.

[ARC 0265C, IAB 8/8/12, effective 9/12/12]

650—20.15(153) Expanded function training approval. Expanded function training shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association or another program prior-approved by the board, which may include on-the-job training offered by a dentist licensed in Iowa. Training must consist of the following:

1. An initial assessment to determine the base entry level of all participants in the program. At a minimum, participants must be currently certified by the Dental Assisting National Board or must have two years of clinical dental assisting experience as a registered dental assistant;
2. A didactic component;
3. A laboratory component, if necessary;
4. A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
5. A postcourse competency assessment at the conclusion of the training program.

[ARC 0265C, IAB 8/8/12, effective 9/12/12]

These rules are intended to implement Iowa Code chapter 153.

[Filed 4/9/79, Notice 10/4/78—published 5/2/79, effective 6/6/79¹]

[Filed 8/3/79, Notice 6/27/79—published 8/22/79, effective 9/26/79]

[Filed 3/20/86, Notice 9/11/85—published 4/9/86, effective 5/14/86]

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 11/19/93, Notices 6/9/93, 8/18/93—published 12/8/93, effective 1/12/94]

[Filed 11/2/95, Notice 8/16/95—published 11/22/95, effective 12/27/95]

[Filed 10/23/00, Notice 8/9/00—published 11/15/00, effective 1/1/01]

[Filed 7/27/01, Notice 5/30/01—published 8/22/01, effective 9/26/01]

[Filed emergency 6/21/02—published 7/10/02, effective 7/1/02]

[Filed 1/30/03, Notice 11/13/02—published 2/19/03, effective 3/26/03]

[Filed 8/29/03, Notice 5/14/03—published 9/17/03, effective 10/22/03]

[Filed 7/1/04, Notice 5/12/04—published 7/21/04, effective 8/25/04]

[Filed 4/22/05, Notice 2/2/05—published 5/11/05, effective 6/15/05]

[Filed emergency 6/30/05—published 7/20/05, effective 7/1/05]

[Filed 2/5/07, Notice 11/22/06—published 2/28/07, effective 4/4/07]

[Filed 1/10/08, Notice 11/7/07—published 1/30/08, effective 3/5/08]

[Filed ARC 7789B (Notice ARC 7575B, IAB 2/11/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 8369B (Notice ARC 8044B, IAB 8/12/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 0265C (Notice ARC 0128C, IAB 5/16/12), IAB 8/8/12, effective 9/12/12]

[Filed ARC 0465C (Notice ARC 0170C, IAB 6/13/12), IAB 11/28/12, effective 1/2/13]

¹ The Administrative Rules Review Committee at their May 21, 1979, meeting delayed the effective date of Chapters 20 and 21 70 days.

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, Chapter 1245.

CHAPTER 1**STATE BOARD OF TAX REVIEW—ADMINISTRATION**

- 1.1(17A,421) Establishment, membership and location of the state board of tax review
- 1.2(421,17A) Powers and duties of the state board
- 1.3(421,17A) Powers and duties not subject to the jurisdiction of the state board

CHAPTER 2**STATE BOARD OF TAX REVIEW—CONDUCT OF APPEALS AND
RULES OF PRACTICE AND PROCEDURE****DIVISION I
APPELLATE CASES****GENERAL RULES OF PRACTICE AND PROCEDURE FOR FINAL CONTESTED CASE DECISIONS OF
OR ATTRIBUTABLE TO THE DIRECTOR OF REVENUE**

- 2.1(421,17A) Definitions
- 2.2(421,17A) Appeal and jurisdiction
- 2.3(421,17A) Form of appeal
- 2.4(421,17A) Certification by director
- 2.5(421,17A) Motions
- 2.6(421,17A) Answer
- 2.7(421,17A) Docketing
- 2.8(421,17A) Filing of papers
- 2.9(421,17A) Hearing an appeal
- 2.10(17A,421) Appearances by appellant
- 2.11(421,17A) Authority of state board to issue procedural orders
- 2.12(421,17A) Continuances
- 2.13(17A,421) Place of hearing
- 2.14(17A,421) Members participating
- 2.15(17A,421) Presiding officer
- 2.16(17A,421) Appeals of state board decisions

**DIVISION II
ORIGINAL JURISDICTION****RULES GOVERNING CONTESTED CASE PROCEEDINGS
IN WHICH THE STATE BOARD HAS ORIGINAL JURISDICTION
TO COMMENCE A CONTESTED CASE PROCEEDING**

- 2.17(421,17A) Applicability and scope
- 2.18(17A) Definitions
- 2.19(421,17A) Time requirements
- 2.20(421,17A) Notice of appeal
- 2.21(421,17A) Form of appeal
- 2.22(421,17A) Certification by director
- 2.23(421,17A) Answer
- 2.24(421,17A) Docketing
- 2.25(421,17A) Appearances by appellant
- 2.26(421,17A) Place of hearing
- 2.27(421,17A) Transcript of hearing
- 2.28(421,17A) Requests for contested case proceeding
- 2.29(421,17A) Notice of hearing
- 2.30(17A) Presiding officer

2.31(421,17A)	Transfer of case for hearing or appeal
2.32(421,17A)	Waiver of procedures
2.33(421,17A)	Telephone proceedings
2.34(17A,421)	Disqualifications of a presiding officer
2.35(421,17A)	Consolidation and severance
2.36(17A)	Service and filing of pleadings and other papers
2.37(421,17A)	Discovery
2.38(421,17A)	Subpoenas
2.39(421,17A)	Motions
2.40(421,17A)	Prehearing conference
2.41(421,17A)	Continuances
2.42(17A)	Withdrawals
2.43(421,17A)	Intervention
2.44(421,17A)	Hearing procedures
2.45(421,17A)	Evidence
2.46(421,17A)	Default or dismissal
2.47(421,17A)	Ex parte communication
2.48(421,17A)	Recording costs
2.49(421,17A)	Interlocutory appeals
2.50(421,17A)	Final decision
2.51(421,17A)	Applications for rehearing
2.52(421,17A)	Stays of agency and board actions
2.53(421,17A)	No factual dispute contested case
2.54(421,17A)	Appeal and review of a state board decision

CHAPTER 3

VOLUNTARY DISCLOSURE PROGRAM

3.1(421,422,423)	Voluntary disclosure program
------------------	------------------------------

CHAPTER 4

MULTILEVEL MARKETER AGREEMENTS

4.1(421)	Multilevel marketers—in general
----------	---------------------------------

CHAPTER 5

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

5.1(17A,22)	Definitions
5.3(17A,22)	Requests for access to records
5.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
5.9(17A,22)	Disclosures without the consent of the subject
5.10(17A,22)	Routine use
5.11(17A,22)	Consensual disclosure of confidential records
5.12(17A,22)	Release to subject
5.13(17A,22)	Availability of records
5.14(17A,22)	Personally identifiable information
5.15(17A,22)	Other groups of records
5.16(17A,22)	Applicability

TITLE I
ADMINISTRATION

CHAPTER 6
ORGANIZATION, PUBLIC INSPECTION

- 6.1(17A) Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests
- 6.2(17A) Public inspection
- 6.3(17A) Examination of records
- 6.4(17A) Copies of proposed rules
- 6.5(17A) Regulatory analysis procedures
- 6.6(422) Retention of records and returns by the department
- 6.7(68B) Consent to sell
- 6.8(421) Tax return extension in disaster areas

CHAPTER 7
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF REVENUE

- 7.1(421,17A) Applicability and scope of rules
- 7.2(421,17A) Definitions
- 7.3(17A) Business hours
- 7.4(17A) Computation of time, filing of documents
- 7.5(17A) Form and style of papers
- 7.6(17A) Persons authorized to represent themselves or others
- 7.7(17A) Resolution of tax liability
- 7.8(17A) Protest
- 7.9(17A) Identifying details
- 7.10(17A) Docket
- 7.11(17A) Informal procedures and dismissals of protests
- 7.12(17A) Answer
- 7.13(17A) Subpoenas
- 7.14(17A) Commencement of contested case proceedings
- 7.15(17A) Discovery
- 7.16(17A) Prehearing conference
- 7.17(17A) Contested case proceedings
- 7.18(17A) Interventions
- 7.19(17A) Record and transcript
- 7.20(17A) Application for rehearing
- 7.21(17A) Service
- 7.22(17A) Ex parte communications and disqualification
- 7.23(17A) Licenses
- 7.24(17A) Declaratory order—in general
- 7.25(17A) Department procedure for rule making
- 7.26(17A) Public inquiries on rule making and the rule-making records
- 7.27(17A) Criticism of rules
- 7.28(17A) Waiver or variance of certain department rules
- 7.29(17A) Petition for rule making
- 7.30(9C,91C) Procedure for nonlocal business entity bond forfeitures
- 7.31(421) Abatement of unpaid tax
- 7.32(421) Time and place of taxpayer interviews
- 7.33(421) Mailing to the last-known address

- 7.34(421) Power of attorney
- 7.35(421) Taxpayer designation of tax type and period to which voluntary payments are to be applied

CHAPTER 8 FORMS AND COMMUNICATIONS

- 8.1(17A) Definitions
- 8.2(17A) Official forms
- 8.3(17A) Substitution of official forms
- 8.4(17A) Description of forms
- 8.5(422) Electronic filing of Iowa income tax returns

CHAPTER 9 FILING AND EXTENSION OF TAX LIENS AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS

- 9.1(422,423) Definitions
- 9.2(422,423) Lien attaches
- 9.3(422,423) Purpose of filing
- 9.4(422,423) Place of filing
- 9.5(422,423) Time of filing
- 9.6(422,423) Period of lien
- 9.7(422,423) Fees

CHAPTER 10 INTEREST, PENALTY, EXCEPTIONS TO PENALTY, AND JEOPARDY ASSESSMENTS

- 10.1(421) Definitions
- 10.2(421) Interest
- 10.3(422,423,450,452A) Interest on refunds and unpaid tax
- 10.4(421) Frivolous return penalty
- 10.5(421) Improper receipt of credit or refund
- PENALTY FOR TAX PERIOD BEGINNING AFTER JANUARY 1, 1991
- 10.6(421) Penalties
- 10.7(421) Waiver of penalty—definitions
- 10.8(421) Penalty exceptions
- 10.9(421) Notice of penalty exception for one late return in a three-year period
- 10.10 to 10.19 Reserved

RETAIL SALES

- 10.20 to 10.29 Reserved

USE

- 10.30 to 10.39 Reserved

INDIVIDUAL INCOME

- 10.40 to 10.49 Reserved

WITHHOLDING

- 10.50 to 10.55 Reserved

CORPORATE

- 10.56 to 10.65 Reserved

FINANCIAL INSTITUTIONS

- 10.66 to 10.70 Reserved

MOTOR FUEL

10.71(452A)	Penalty and enforcement provisions
10.72(452A)	Interest
10.73 to 10.75	Reserved

CIGARETTES AND TOBACCO

10.76(453A)	Penalties
10.77(453A)	Interest
10.78	Reserved
10.79(453A)	Request for statutory exception to penalty
10.80 to 10.84	Reserved

INHERITANCE

10.85 to 10.89	Reserved
----------------	----------

IOWA ESTATE

10.90 to 10.95	Reserved
----------------	----------

GENERATION SKIPPING

10.96 to 10.100	Reserved
-----------------	----------

FIDUCIARY INCOME

10.101 to 10.109	Reserved
------------------	----------

HOTEL AND MOTEL

10.110 to 10.114	Reserved
------------------	----------

ALL TAXES

10.115(421)	Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer
-------------	---

JEOPARDY ASSESSMENTS

10.116(422,453B)	Jeopardy assessments
10.117(422,453B)	Procedure for posting bond
10.118(422,453B)	Time limits
10.119(422,453B)	Amount of bond
10.120(422,453B)	Posting of bond
10.121(422,453B)	Order
10.122(422,453B)	Director's order
10.123(422,453B)	Type of bond
10.124(422,453B)	Form of surety bond
10.125(422,453B)	Duration of the bond
10.126(422,453B)	Exoneration of the bond

TITLE II
EXCISECHAPTER 11
ADMINISTRATION

11.1(422,423)	Definitions
11.2(422,423)	Statute of limitations
11.3(422,423)	Credentials and receipts
11.4(422,423)	Retailers required to keep records
11.5(422,423)	Audit of records
11.6(422,423)	Billings
11.7(422,423)	Collections
11.8(422,423)	No property exempt from distress and sale

- 11.9(422,423) Information confidential
- 11.10(423) Bonding procedure

CHAPTER 12

FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

- 12.1(422) Returns and payment of tax
- 12.2(422,423) Remittances
- 12.3(422) Permits and negotiated rate agreements
- 12.4(422) Nonpermit holders
- 12.5(422,423) Regular permit holders responsible for collection of tax
- 12.6(422,423) Sale of business
- 12.7(422) Bankruptcy, insolvency or assignment for benefit of creditors
- 12.8(422) Vending machines and other coin-operated devices
- 12.9(422) Claim for refund of tax
- 12.10(423) Audit limitation for certain services
- 12.11 Reserved
- 12.12(422) Extension of time for filing
- 12.13(422) Determination of filing status
- 12.14(422,423) Immediate successor liability for unpaid tax
- 12.15(422,423) Officers and partners—personal liability for unpaid tax
- 12.16(422) Show sponsor liability
- 12.17(422) Purchaser liability for unpaid sales tax
- 12.18(423) Biodiesel production refund
- 12.19(15) Sales and use tax refund for eligible businesses

CHAPTER 13

PERMITS

- 13.1(422) Retail sales tax permit required
- 13.2(422) Application for permit
- 13.3(422) Permit not transferable—sale of business
- 13.4(422) Permit—consolidated return optional
- 13.5(422) Retailers operating a temporary business
- 13.6(422) Reinstatement of canceled permit
- 13.7(422) Reinstatement of revoked permit
- 13.8(422) Withdrawal of permit
- 13.9(422) Loss or destruction of permit
- 13.10(422) Change of location
- 13.11(422) Change of ownership
- 13.12(422) Permit posting
- 13.13(422) Trustees, receivers, executors and administrators
- 13.14(422) Vending machines and other coin-operated devices
- 13.15(422) Other amusements
- 13.16(422) Substantially delinquent tax—denial of permit
- 13.17(422) Substantially delinquent tax—revocation of permit

CHAPTER 14

COMPUTATION OF TAX

- 14.1(422) Tax not to be included in price
- 14.2(422,423,77GA,ch1130) Retail bracket system for state sales and local option sales and service tax
- 14.3(422,423) Taxation of transactions due to rate change

CHAPTER 15

DETERMINATION OF A SALE AND SALE PRICE

15.1(422)	Conditional sales to be included in gross sales
15.2(422,423)	Reposessed goods
15.3(422,423)	Exemption certificates, direct pay permits, fuel used in processing, and beer and wine wholesalers
15.4(422,423)	Bad debts
15.5(422,423)	Recovery of bad debts by collection agency or attorney
15.6(422,423)	Discounts, rebates and coupons
15.7	Reserved
15.8(422,423)	Returned merchandise
15.9(422)	Goods damaged in transit
15.10(422)	Consignment sales
15.11(422,423)	Leased departments
15.12(422,423)	Excise tax included in and excluded from gross receipts
15.13(422,423)	Freight, other transportation charges, and exclusions from the exemption applicable to these services
15.14(422,423)	Installation charges when tangible personal property is sold at retail
15.15(422)	Premiums and gifts
15.16(422)	Gift certificates
15.17(422,423)	Finance charge
15.18(422,423)	Coins and other currency exchanged at greater than face value
15.19(422,423)	Trade-ins
15.20(422,423)	Corporate mergers which do not involve taxable sales of tangible personal property or services

CHAPTER 16

TAXABLE SALES

16.1(422)	Tax imposed
16.2(422)	Used or secondhand tangible personal property
16.3(422,423)	Tangible personal property used or consumed by the manufacturer thereof
16.4(422,423)	Patterns, dies, jigs, tools, and manufacturing or printing aids
16.5(422,423)	Explosives used in mines, quarries and elsewhere
16.6(422,423)	Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates and wood mounts
16.7	Reserved
16.8(422,423)	Wholesalers and jobbers selling at retail
16.9(422,423)	Materials and supplies sold to retail stores
16.10(422,423)	Sales to certain corporations organized under federal statutes
16.11(422,423)	Paper plates, paper cups, paper dishes, paper napkins, paper, wooden or plastic spoons and forks and straws
16.12(422)	Tangible personal property purchased for resale but incidentally consumed by the purchaser
16.13(422)	Property furnished without charge by employers to employees
16.14(422)	Sales in interstate commerce—goods delivered into this state
16.15(422)	Owners or operators of buildings
16.16(422,423)	Tangible personal property made to order
16.17(422,423)	Blacksmith and machine shops
16.18(422,423)	Sales of signs at retail
16.19(422,423)	Products sold by cooperatives to members or patrons
16.20(422,423)	Municipal utilities, investor-owned utilities, or municipal or rural electrification cooperatives or associations

16.21(422,423)	Sale of pets
16.22(422,423)	Sales on layaway
16.23(422)	Meal tickets, coupon books, and merchandise cards
16.24(422,423)	Truckers engaged in retail business
16.25(422,423)	Foreign truckers selling at retail in Iowa
16.26(422)	Admissions to amusements, athletic events, commercial amusement enterprises, fairs, and games
16.27 and 16.28	Reserved
16.29(422)	Rental of personal property in connection with the operation of amusements
16.30(422)	Commercial amusement enterprises—companies or persons which contract to furnish show for fixed fee
16.31	Reserved
16.32(422)	River steamboats
16.33(422)	Pawnbrokers
16.34(422,423)	Druggists and pharmacists
16.35(422,423)	Memorial stones
16.36(422)	Communication services furnished by hotel to its guests
16.37(422)	Private clubs
16.38	Reserved
16.39(422)	Athletic events
16.40(422,423)	Iowa dental laboratories
16.41(422,423)	Dental supply houses
16.42(422)	News distributors and magazine distributors
16.43(422,423)	Magazine subscriptions by independent dealers
16.44(422,423)	Sales by finance companies
16.45(422,423)	Sale of baling wire and baling twine
16.46(422,423)	Snowmobiles and motorboats
16.47(422)	Conditional sales contracts
16.48(422,423)	Carpeting and other floor coverings
16.49(422,423)	Bowling
16.50(422,423)	Various special problems relating to public utilities
16.51(422,423)	Sales of services treated as sales of tangible personal property
16.52(422,423)	Sales of prepaid merchandise cards

CHAPTER 17 EXEMPT SALES

17.1(422,423)	Gross receipts expended for educational, religious, and charitable purposes
17.2(422)	Fuel used in processing—when exempt
17.3(422,423)	Processing exemptions
17.4(422,423)	Commercial fertilizer and agricultural limestone
17.5(422,423)	Sales to the American Red Cross, the Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O
17.6(422,423)	Sales of vehicles subject to registration—new and used—by dealers
17.7(422,423)	Sales to certain federal corporations
17.8(422)	Sales in interstate commerce—goods transported or shipped from this state
17.9(422,423)	Sales of breeding livestock, fowl and certain other property used in agricultural production
17.10(422,423)	Materials used for seed inoculations
17.11(422,423)	Educational institution
17.12(422)	Coat or hat checkrooms
17.13(422,423)	Railroad rolling stock
17.14(422,423)	Chemicals, solvents, sorbents, or reagents used in processing

17.15(422,423)	Demurrage charges
17.16(422,423)	Sale of a draft horse
17.17(422,423)	Beverage container deposits
17.18(422,423)	Films, video tapes and other media, exempt rental and sale
17.19(422,423)	Gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to certain nonprofit corporations exempt from tax
17.20(422)	Raffles
17.21(422)	Exempt sales of prizes
17.22(422,423)	Modular homes
17.23(422,423)	Sales to other states and their political subdivisions
17.24(422)	Nonprofit private museums
17.25(422,423)	Exempt sales by excursion boat licensees
17.26(422,423)	Bedding for agricultural livestock or fowl
17.27(422,423)	Statewide notification center service exemption
17.28(422,423)	State fair and fair societies
17.29(422,423)	Reciprocal shipment of wines
17.30(422,423)	Nonprofit organ procurement organizations
17.31(422,423)	Sale of electricity to water companies
17.32(422)	Food and beverages sold by certain organizations are exempt
17.33(422,423)	Sales of building materials, supplies and equipment to not-for-profit rural water districts
17.34(422,423)	Sales to hospices
17.35(422,423)	Sales of livestock ear tags
17.36(422,423)	Sale or rental of information services
17.37(422,423)	Temporary exemption from sales tax on certain utilities
17.38(422,423)	State sales tax phase-out on energies
17.39(422,423)	Art centers
17.40(422,423)	Community action agencies
17.41(422,423)	Legislative service bureau

CHAPTER 18

TAXABLE AND EXEMPT SALES DETERMINED BY METHOD
OF TRANSACTION OR USAGE

18.1(422,423)	Tangible personal property purchased from the United States government
18.2(422,423)	Sales of butane, propane and other like gases in cylinder drums, etc.
18.3(422,423)	Chemical compounds used to treat water
18.4(422)	Mortgages and trustees
18.5(422,423)	Sales to agencies or instrumentalities of federal, state, county and municipal government
18.6(422,423)	Relief agencies
18.7(422,423)	Containers, including packing cases, shipping cases, wrapping material and similar items
18.8(422)	Auctioneers
18.9(422)	Sales by farmers
18.10(422,423)	Florists
18.11(422,423)	Landscaping materials
18.12(422,423)	Hatcheries
18.13(422,423)	Sales by the state of Iowa, its agencies and instrumentalities
18.14(422,423)	Sales of livestock and poultry feeds
18.15(422,423)	Student fraternities and sororities
18.16(422,423)	Photographers and photostaters

18.17(422,423)	Gravel and stone
18.18(422,423)	Sale of ice
18.19(422,423)	Antiques, curios, old coins or collector's postage stamps
18.20(422,423)	Communication services
18.21(422,423)	Morticians or funeral directors
18.22(422,423)	Physicians, dentists, surgeons, ophthalmologists, oculists, optometrists, and opticians
18.23(422)	Veterinarians
18.24(422,423)	Hospitals, infirmaries and sanitariums
18.25(422,423)	Warranties and maintenance contracts
18.26(422)	Service charge and gratuity
18.27(422)	Advertising agencies, commercial artists, and designers
18.28(422,423)	Casual sales
18.29(422,423)	Processing, a definition of the word, its beginning and completion characterized with specific examples of processing
18.30(422)	Taxation of American Indians
18.31(422,423)	Tangible personal property purchased by one who is engaged in the performance of a service
18.32(422,423)	Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
18.33(422,423)	Printers' and publishers' supplies exemption with retroactive effective date
18.34(422,423)	Automatic data processing
18.35(422,423)	Drainage tile
18.36(422,423)	True leases and purchases of tangible personal property by lessors
18.37(422,423)	Motor fuel, special fuel, aviation fuels and gasoline
18.38(422,423)	Urban transit systems
18.39(422,423)	Sales or services rendered, furnished, or performed by a county or city
18.40(422,423)	Renting of rooms
18.41(422,423)	Envelopes for advertising
18.42(422,423)	Newspapers, free newspapers and shoppers' guides
18.43(422,423)	Written contract
18.44(422,423)	Sale or rental of farm machinery and equipment
18.45(422,423)	Sale or rental of computers, industrial machinery and equipment; refund of and exemption from tax paid for periods prior to July 1, 1997
18.46(422,423)	Automotive fluids
18.47(422,423)	Maintenance or repair of fabric or clothing
18.48(422,423)	Sale or rental of farm machinery, equipment, replacement parts, and repairs used in livestock, dairy, or plant production
18.49(422,423)	Aircraft sales, rental, component parts, and services exemptions prior to, on, and after July 1, 1999
18.50(422,423)	Property used by a lending organization
18.51(422,423)	Sales to nonprofit legal aid organizations
18.52(422,423)	Irrigation equipment used in farming operations
18.53(422,423)	Sales to persons engaged in the consumer rental purchase business
18.54(422,423)	Sales of advertising material
18.55(422,423)	Drop shipment sales
18.56(422,423)	Wind energy conversion property
18.57(422,423)	Exemptions applicable to the production of flowering, ornamental, and vegetable plants
18.58(422,423)	Exempt sales or rentals of computers, industrial machinery and equipment, and exempt sales of fuel and electricity on and after July 1, 1997
18.59(422,423)	Exempt sales to nonprofit hospitals

- 18.60(422,423) Exempt sales of gases used in the manufacturing process
- 18.61(422,423) Exclusion from tax for property delivered by certain media

CHAPTER 19

SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

- 19.1(422,423) General information
- 19.2(422,423) Contractors are consumers of building materials, supplies, and equipment by statute
- 19.3(422,423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
- 19.4(422,423) Contractors, subcontractors or builders who are retailers
- 19.5(422,423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
- 19.6(422,423) Prefabricated structures
- 19.7(422,423) Types of construction contracts
- 19.8(422,423) Machinery and equipment sales contracts with installation
- 19.9(422,423) Construction contracts with equipment sales (mixed contracts)
- 19.10(422,423) Distinguishing machinery and equipment from real property
- 19.11(422,423) Tangible personal property which becomes structures
- 19.12(422,423) Construction contracts with tax exempt entities
- 19.13(422,423) Tax on enumerated services
- 19.14(422,423) Transportation cost
- 19.15(422,423) Start-up charges
- 19.16(422,423) Liability of subcontractors
- 19.17(422,423) Liability of sponsors
- 19.18(422,423) Withholding
- 19.19(422,423) Resale certificates
- 19.20(423) Reporting for use tax

CHAPTER 20

FOODS FOR HUMAN CONSUMPTION, PRESCRIPTION DRUGS, INSULIN, HYPODERMIC SYRINGES, DIABETIC TESTING MATERIALS, PROSTHETIC, ORTHOTIC OR ORTHOPEDIC DEVICES

- 20.1(422,423) Foods for human consumption
- 20.2(422,423) Food coupon rules
- 20.3(422,423) Nonparticipating retailer in the food coupon program
- 20.4(422,423) Determination of eligible foods
- 20.5(422,423) Meals and prepared food
- 20.6(422,423) Vending machines
- 20.7(422,423) Prescription drugs and devices
- 20.8(422,423) Exempt sales of nonprescription medical devices, other than prosthetic devices
- 20.9(422,423) Prosthetic, orthotic and orthopedic devices
- 20.10(422,423) Sales and rentals covered by Medicaid and Medicare
- 20.11(422,423) Reporting
- 20.12(422,423) Exempt sales of clothing and footwear during two-day period in August

CHAPTERS 21 to 25

Reserved

TITLE III
SALES TAX ON SERVICES

CHAPTER 26
SALES AND USE TAX ON SERVICES

26.1(422)	Definition and scope
26.2(422)	Enumerated services exempt
26.3(422)	Alteration and garment repair
26.4(422)	Armored car
26.5(422)	Vehicle repair
26.6(422)	Battery, tire and allied
26.7(422)	Investment counseling
26.8(422)	Bank and financial institution service charges
26.9(422)	Barber and beauty
26.10(422)	Boat repair
26.11(422)	Car and vehicle wash and wax
26.12(422)	Carpentry
26.13(422)	Roof, shingle and glass repair
26.14(422)	Dance schools and dance studios
26.15(422)	Dry cleaning, pressing, dyeing and laundering
26.16(422)	Electrical and electronic repair and installation
26.17(422)	Engraving, photography and retouching
26.18(422,423)	Equipment and tangible personal property rental
26.19(422)	Excavating and grading
26.20(422)	Farm implement repair of all kinds
26.21(422)	Flying service
26.22(422)	Furniture, rug, upholstery, repair and cleaning
26.23(422)	Fur storage and repair
26.24(422)	Golf and country clubs and all commercial recreation
26.25(422)	House and building moving
26.26(422)	Household appliance, television and radio repair
26.27(422)	Jewelry and watch repair
26.28(422)	Machine operators
26.29(422)	Machine repair of all kinds
26.30(422)	Motor repair
26.31(422)	Motorcycle, scooter and bicycle repair
26.32(422)	Oilers and lubricators
26.33(422)	Office and business machine repair
26.34(422)	Painting, papering and interior decorating
26.35(422)	Parking facilities
26.36(422)	Pipe fitting and plumbing
26.37(422)	Wood preparation
26.38(422)	Private employment agency, executive search agency
26.39(422)	Printing and binding
26.40(422)	Sewing and stitching
26.41(422)	Shoe repair and shoeshine
26.42(422)	Storage warehousing, storage locker, and storage warehousing of raw agricultural products and household goods
26.43(422,423)	Telephone answering service
26.44(422)	Test laboratories
26.45(422)	Termite, bug, roach, and pest eradicators
26.46(422)	Tin and sheet metal repair

26.47(422)	Turkish baths, massage, and reducing salons
26.48(422)	Vulcanizing, recapping or retreading
26.49	Reserved
26.50(422)	Weighing
26.51(422)	Welding
26.52(422)	Well drilling
26.53(422)	Wrapping, packing and packaging of merchandise other than processed meat, fish, fowl and vegetables
26.54(422)	Wrecking service
26.55(422)	Wrecker and towing
26.56(422)	Cable and pay television
26.57(422)	Camera repair
26.58(422)	Campgrounds
26.59(422)	Gun repair
26.60(422)	Janitorial and building maintenance or cleaning
26.61(422)	Lawn care
26.62(422)	Landscaping
26.63(422)	Pet grooming
26.64(422)	Reflexology
26.65(422)	Tanning beds and tanning salons
26.66(422)	Tree trimming and removal
26.67(422)	Water conditioning and softening
26.68(422)	Motor vehicle, recreational vehicle and recreational boat rental
26.69(422)	Security and detective services
26.70	Reserved
26.71(422,423)	Solid waste collection and disposal services
26.72(422,423)	Sewage services
26.73	Reserved
26.74(422,423)	Aircraft rental
26.75(422,423)	Sign construction and installation
26.76(422,423)	Swimming pool cleaning and maintenance
26.77(422,423)	Taxidermy
26.78(422,423)	Mini-storage
26.79(422,423)	Dating services
26.80(422,423)	Limousine service
26.81(422)	Sales of bundled services contracts

CHAPTER 27

AUTOMOBILE RENTAL EXCISE TAX

27.1(422,422C,423)	Definitions and characterizations
27.2(422,422C,423)	Tax imposed upon rental of automobiles
27.3(422,422C,423)	Lessor's obligation to collect tax
27.4(422,422C,423)	Administration of tax

TITLE IV
USECHAPTER 28
DEFINITIONS

28.1(423)	Taxable use defined
28.2(423)	Processing of property defined
28.3(423)	Purchase price defined
28.4(423)	Retailer maintaining a place of business in this state defined

CHAPTER 29
CERTIFICATES

- 29.1(423) Certificate of registration
- 29.2(423) Cancellation of certificate of registration
- 29.3(423) Certificates of resale, direct pay permits, or processing

CHAPTER 30
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

- 30.1(423) Liability for use tax and denial and revocation of permit
- 30.2(423) Measure of use tax
- 30.3(421,423) Consumer's use tax return
- 30.4(423) Retailer's use tax return
- 30.5(423) Collection requirements of registered retailers
- 30.6(423) Bracket system to be used by registered vendors
- 30.7(423) Sales tax or use tax paid to another state
- 30.8(423) Registered retailers selling tangible personal property on a conditional sale contract basis
- 30.9(423) Registered vendors repossessing goods sold on a conditional sale contract basis
- 30.10(423) Penalties for late filing of a monthly tax deposit or use tax returns
- 30.11(423) Claim for refund of use tax
- 30.12(423) Extension of time for filing

CHAPTER 31
RECEIPTS SUBJECT TO USE TAX

- 31.1(423) Transactions consummated outside this state
- 31.2(423) Goods coming into this state
- 31.3(423) Sales by federal government or agencies to consumers
- 31.4(423) Sales for lease of vehicles subject to registration—taxation and exemptions
- 31.5(423) Motor vehicle use tax on long-term leases
- 31.6(423) Sales of aircraft subject to registration
- 31.7(423) Communication services

CHAPTER 32
RECEIPTS EXEMPT FROM USE TAX

- 32.1(423) Tangible personal property and taxable services subject to sales tax
- 32.2(423) Sales tax exemptions applicable to use tax
- 32.3(423) Mobile homes and manufactured housing
- 32.4(423) Exemption for vehicles used in interstate commerce
- 32.5(423) Exemption for transactions if sales tax paid
- 32.6(423) Exemption for ships, barges, and other waterborne vessels
- 32.7(423) Exemption for containers
- 32.8(423) Exemption for building materials used outside this state
- 32.9(423) Exemption for vehicles subject to registration
- 32.10(423) Exemption for vehicles operated under Iowa Code chapter 326
- 32.11(423) Exemption for vehicles purchased for rental or lease
- 32.12(423) Exemption for vehicles previously purchased for rental
- 32.13(423) Exempt use of aircraft on and after July 1, 1999

CHAPTER 33
RECEIPTS SUBJECT TO USE TAX DEPENDING ON
METHOD OF TRANSACTION

- 33.1 Reserved
- 33.2(423) Federal manufacturer's or retailer's excise tax

- 33.3(423) Fuel consumed in creating power, heat or steam for processing or generating electric current
- 33.4(423) Repair of tangible personal property outside the state of Iowa
- 33.5(423) Taxation of American Indians
- 33.6(422,423) Exemption for property used in Iowa only in interstate commerce
- 33.7(423) Property used to manufacture certain vehicles to be leased
- 33.8(423) Out-of-state rental of vehicles subject to registration subsequently used in Iowa
- 33.9(423) Sales of mobile homes, manufactured housing, and related property and services
- 33.10(423) Tax imposed on the use of manufactured housing as tangible personal property and as real estate

CHAPTER 34

VEHICLES SUBJECT TO REGISTRATION

- 34.1(422,423) Definitions
- 34.2(423) County treasurer shall collect tax
- 34.3(423) Returned vehicles and tax refunded by manufacturers
- 34.4(423) Use tax collections required
- 34.5(423) Exemptions
- 34.6(423) Vehicles subject to registration received as gifts or prizes
- 34.7(423) Titling of used foreign vehicles by dealers
- 34.8(423) Dealer's retail sales tax returns
- 34.9(423) Affidavit forms
- 34.10(423) Exempt and taxable purchases of vehicles for taxable rental
- 34.11(423) Manufacturer's refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle
- 34.12(423) Government payments for a motor vehicle which do not involve government purchases of the same
- 34.13(423) Transfers of vehicles resulting from corporate mergers and other types of corporate transfers
- 34.14(423) Refund of use tax paid on the purchase of a motor vehicle
- 34.15(423) Registration by manufacturers
- 34.16(423) Rebates
- 34.17(321,423) Repossession of a vehicle
- 34.18(423) Federal excise tax
- 34.19(423) Claiming an exemption from Iowa tax
- 34.20(423) Affidavit forms
- 34.21(423) Insurance companies

CHAPTERS 35 and 36

Reserved

CHAPTER 37

UNDERGROUND STORAGE TANK RULES

INCORPORATED BY REFERENCE

- 37.1(424) Rules incorporated

TITLE V INDIVIDUAL

CHAPTER 38

ADMINISTRATION

- 38.1(422) Definitions
- 38.2(422) Statute of limitations
- 38.3(422) Retention of records

38.4(422)	Authority for deductions
38.5(422)	Jeopardy assessments
38.6(422)	Information deemed confidential
38.7(422)	Power of attorney
38.8(422)	Delegations to audit and examine
38.9(422)	Bonding procedure
38.10(422)	Indexation
38.11(422)	Appeals of notices of assessment and notices of denial of taxpayer's refund claims
38.12(422)	Indexation of the optional standard deduction for inflation
38.13(422)	Reciprocal tax agreements
38.14(422)	Information returns for reporting income payments to the department of revenue
38.15(422)	Relief of innocent spouse for substantial understatement of tax attributable to other spouse
38.16(422)	Preparation of taxpayers' returns by department employees
38.17(422)	Resident determination
38.18(422)	Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return
38.19(422)	Indication of dependent child health care coverage on tax return

CHAPTER 39

FILING RETURN AND PAYMENT OF TAX

39.1(422)	Who must file
39.2(422)	Time and place for filing
39.3(422)	Form for filing
39.4(422)	Filing status
39.5(422)	Payment of tax
39.6(422)	Minimum tax
39.7(422)	Tax on lump-sum distributions
39.8(422)	State income tax limited to taxpayer's net worth immediately before the distressed sale
39.9(422)	Special tax computation for all low-income taxpayers except single taxpayers
39.10(422)	Election to report excess income from sale or exchange of livestock due to drought in the next tax year
39.11(422)	Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action
39.12(422)	Tax benefits for persons in the armed forces deployed outside the United States
39.13	Reserved
39.14(422)	Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area
39.15(422)	Special tax computation for taxpayers who are 65 years of age or older

CHAPTER 40

DETERMINATION OF NET INCOME

40.1(422)	Net income defined
40.2(422)	Interest and dividends from federal securities
40.3(422)	Interest and dividends from foreign securities, and securities of state and their political subdivisions
40.4	Reserved
40.5(422)	Military pay
40.6(422)	Interest and dividend income
40.7(422)	Current year capital gains and losses

40.8(422)	Gains and losses on property acquired before January 1, 1934
40.9(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
40.10 and 40.11	Reserved
40.12(422)	Income from partnerships or limited liability companies
40.13(422)	Subchapter "S" income
40.14(422)	Contract sales
40.15(422)	Reporting of incomes by married taxpayers who file a joint federal return but elect to file separately for Iowa income tax purposes
40.16(422)	Income of nonresidents
40.17(422)	Income of part-year residents
40.18(422)	Net operating loss carrybacks and carryovers
40.19(422)	Casualty losses
40.20(422)	Adjustments to prior years
40.21(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
40.22(422)	Disability income exclusion
40.23(422)	Social security benefits
40.24(99E)	Lottery prizes
40.25 and 40.26	Reserved
40.27(422)	Incomes from distressed sales of qualifying taxpayers
40.28	Reserved
40.29(422)	Intangible drilling costs
40.30(422)	Percentage depletion
40.31(422)	Away-from-home expenses of state legislators
40.32(422)	Interest and dividends from regulated investment companies which are exempt from federal income tax
40.33	Reserved
40.34(422)	Exemption of restitution payments for persons of Japanese ancestry
40.35(422)	Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans
40.36(422)	Exemption of interest earned on bonds issued to finance beginning farmer loan program
40.37(422)	Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board
40.38(422)	Capital gain deduction or exclusion for certain types of net capital gains
40.39(422)	Exemption of interest from bonds or notes issued to fund the E911 emergency telephone system
40.40(422)	Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield
40.41	Reserved
40.42(422)	Depreciation of speculative shell buildings
40.43(422)	Retroactive exemption for payments received for providing unskilled in-home health care services to a relative
40.44(422,541A)	Individual development accounts
40.45(422)	Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa
40.46(422)	Taxation of compensation of nonresident members of professional athletic teams
40.47(422)	Partial exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors
40.48(422)	Health insurance premiums deduction
40.49(422)	Employer social security credit for tips
40.50(422)	Computing state taxable amounts of pension benefits from state pension plans

- 40.51(422) Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area
- 40.52(422) Mutual funds
- 40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted
- 40.54(422) Roth individual retirement accounts
- 40.55(422) Exemption of income payments for victims of the Holocaust and heirs of victims
- 40.56(422) Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions
- 40.57(422) Installment sales by taxpayers using the accrual method of accounting
- 40.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States
- 40.59(422) Exemption of payments received by a beneficiary from an annuity purchased under an employee's retirement plan when the installment has been included as part of a decedent employee's estate
- 40.60(422) Additional first-year depreciation allowance
- 40.61(422) Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn
- 40.62(422) Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve
- 40.63(422) Exclusion of income from military student loan repayments
- 40.64(422) Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty
- 40.65(422) Section 179 expensing
- 40.66(422) Deduction for certain unreimbursed expenses relating to a human organ transplant
- 40.67(422) Deduction for alternative motor vehicles
- 40.68(422) Injured veterans grant program
- 40.69(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
- 40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects
- 40.71(422) Exclusion for certain victim compensation payments
- 40.72(422) Exclusion of Vietnam Conflict veterans bonus
- 40.73(422) Exclusion for health care benefits of nonqualified tax dependents
- 40.74(422) Exclusion for AmeriCorps Segal Education Award
- 40.75(422) Exclusion of certain amounts received from Iowa veterans trust fund
- 40.76(422) Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard
- 40.77(422) Exclusion of biodiesel production refund
- 40.78(422) Allowance of certain deductions for 2008 tax year
- 40.79(422) Special filing provisions related to 2010 tax changes

CHAPTER 41

DETERMINATION OF TAXABLE INCOME

- 41.1(422) Verification of deductions required
- 41.2(422) Federal rulings and regulations
- 41.3(422) Federal income tax deduction and federal refund
- 41.4(422) Optional standard deduction

41.5(422)	Itemized deductions
41.6(422)	Itemized deductions—separate returns by spouses
41.7(422)	Itemized deductions—part-year residents
41.8(422)	Itemized deductions—nonresidents
41.9(422)	Annualizing income
41.10(422)	Income tax averaging
41.11(422)	Reduction in state itemized deductions for certain high-income taxpayers
41.12(422)	Deduction for home mortgage interest for taxpayers with mortgage interest credit
41.13(422)	Iowa income taxes and Iowa tax refund

CHAPTER 42

ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS

42.1(257,422)	School district surtax
42.2(422D)	Emergency medical services income surtax
42.3(422)	Exemption credits
42.4(422)	Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa
42.5(422)	Nonresident and part-year resident credit
42.6(422)	Out-of-state tax credits
42.7(422)	Out-of-state tax credit for minimum tax
42.8(422)	Withholding and estimated tax credits
42.9(422)	Motor fuel credit
42.10(422)	Alternative minimum tax credit for minimum tax paid in a prior tax year
42.11(15,422)	Research activities credit
42.12(422)	New jobs credit
42.13(422)	Earned income credit
42.14(15)	Investment tax credit—new jobs and income program and enterprise zone program
42.15(422)	Child and dependent care credit
42.16(422)	Franchise tax credit
42.17(15E)	Eligible housing business tax credit
42.18(422)	Assistive device tax credit
42.19(404A,422)	Historic preservation and cultural and entertainment district tax credit
42.20(422)	Ethanol blended gasoline tax credit
42.21(15E)	Eligible development business investment tax credit
42.22(15E,422)	Venture capital credits
42.23(15)	New capital investment program tax credits
42.24(15E,422)	Endow Iowa tax credit
42.25(422)	Soy-based cutting tool oil tax credit
42.26(15I,422)	Wage-benefits tax credit
42.27(422,476B)	Wind energy production tax credit
42.28(422,476C)	Renewable energy tax credit
42.29(15)	High quality job creation program
42.30(15E,422)	Economic development region revolving fund tax credit
42.31(422)	Early childhood development tax credit
42.32(422)	School tuition organization tax credit
42.33(422)	E-85 gasoline promotion tax credit
42.34(422)	Biodiesel blended fuel tax credit
42.35(422)	Soy-based transformer fluid tax credit
42.36(175,422)	Agricultural assets transfer tax credit
42.37(15,422)	Film qualified expenditure tax credit
42.38(15,422)	Film investment tax credit
42.39(422)	Ethanol promotion tax credit

42.40(422)	Charitable conservation contribution tax credit
42.41(15,422)	Redevelopment tax credit
42.42(15)	High quality jobs program
42.43(16,422)	Disaster recovery housing project tax credit
42.44(422)	Deduction of credits
42.45(15)	Aggregate tax credit limit for certain economic development programs
42.46(422)	E-15 plus gasoline promotion tax credit
42.47(422)	Geothermal heat pump tax credit
42.48(422)	Solar energy system tax credit
42.49(422)	Volunteer fire fighter and volunteer emergency medical services personnel tax credit

CHAPTER 43 ASSESSMENTS AND REFUNDS

43.1(422)	Notice of discrepancies
43.2(422)	Notice of assessment, supplemental assessments and refund adjustments
43.3(422)	Overpayments of tax
43.4(68A,422,456A)	Optional designations of funds by taxpayer
43.5(422)	Abatement of tax
43.6 and 43.7	Reserved
43.8(422)	Livestock production credit refunds for corporate taxpayers and individual taxpayers

CHAPTER 44 PENALTY AND INTEREST

44.1(422)	Penalty
44.2(422)	Computation of interest on unpaid tax
44.3(422)	Computation of interest on refunds resulting from net operating losses
44.4(422)	Computation of interest on overpayments

CHAPTER 45 PARTNERSHIPS

45.1(422)	General rule
45.2(422)	Partnership returns
45.3(422)	Contents of partnership return
45.4(422)	Distribution and taxation of partnership income

CHAPTER 46 WITHHOLDING

46.1(422)	Who must withhold
46.2(422)	Computation of amount withheld
46.3(422)	Forms, returns and reports
46.4(422)	Withholding on nonresidents
46.5(422)	Penalty and interest
46.6(422)	Withholding tax credit to workforce development fund
46.7(422)	ACE training program credits from withholding
46.8(260E)	New job tax credit from withholding
46.9(15)	Supplemental new jobs credit from withholding and alternative credit for housing assistance programs
46.10(403)	Targeted jobs withholding tax credit

CHAPTER 47 Reserved

CHAPTER 48
COMPOSITE RETURNS

48.1(422)	Composite returns
48.2(422)	Definitions
48.3(422)	Filing requirements
48.4	Reserved
48.5(422)	Composite return required by director
48.6(422)	Determination of composite Iowa income
48.7(422)	Determination of composite Iowa tax
48.8(422)	Estimated tax
48.9(422)	Time and place for filing

CHAPTER 49
ESTIMATED INCOME TAX FOR INDIVIDUALS

49.1(422)	Who must pay estimated income tax
49.2(422)	Time for filing and payment of tax
49.3(422)	Estimated tax for nonresidents
49.4(422)	Special estimated tax periods
49.5(422)	Reporting forms
49.6(422)	Penalty—underpayment of estimated tax
49.7(422)	Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances

CHAPTER 50
APPORTIONMENT OF INCOME FOR RESIDENT
SHAREHOLDERS OF S CORPORATIONS

50.1(422)	Apportionment of income for resident shareholders of S corporations
50.2(422)	Definitions
50.3(422)	Distributions
50.4(422)	Computation of net S corporation income
50.5(422)	Computation of federal tax on S corporation income
50.6(422)	Income allocable to Iowa
50.7(422)	Credit for taxes paid to another state
50.8	Reserved
50.9(422)	Examples for tax periods beginning prior to January 1, 2002
50.10(422)	Example for tax periods beginning on or after January 1, 2002

TITLE VI
CORPORATION

CHAPTER 51
ADMINISTRATION

51.1(422)	Definitions
51.2(422)	Statutes of limitation
51.3(422)	Retention of records
51.4(422)	Cancellation of authority to do business
51.5(422)	Authority for deductions
51.6(422)	Jeopardy assessments
51.7(422)	Information confidential
51.8(422)	Power of attorney
51.9(422)	Delegation of authority to audit and examine

CHAPTER 52
FILING RETURNS, PAYMENT OF TAX,
PENALTY AND INTEREST, AND TAX CREDITS

52.1(422)	Who must file
52.2(422)	Time and place for filing return
52.3(422)	Form for filing
52.4(422)	Payment of tax
52.5(422)	Minimum tax
52.6(422)	Motor fuel credit
52.7(422)	Research activities credit
52.8(422)	New jobs credit
52.9	Reserved
52.10(15)	New jobs and income program tax credits
52.11(422)	Refunds and overpayments
52.12(422)	Deduction of credits
52.13(422)	Livestock production credits
52.14(15E)	Enterprise zone tax credits
52.15(15E)	Eligible housing business tax credit
52.16(422)	Franchise tax credit
52.17(422)	Assistive device tax credit
52.18(404A,422)	Historic preservation and cultural and entertainment district tax credit
52.19(422)	Ethanol blended gasoline tax credit
52.20(15E)	Eligible development business investment tax credit
52.21(15E,422)	Venture capital credits
52.22(15)	New capital investment program tax credits
52.23(15E,422)	Endow Iowa tax credit
52.24(422)	Soy-based cutting tool oil tax credit
52.25(15I,422)	Wage-benefits tax credit
52.26(422,476B)	Wind energy production tax credit
52.27(422,476C)	Renewable energy tax credit
52.28(15)	High quality job creation program
52.29(15E,422)	Economic development region revolving fund tax credit
52.30(422)	E-85 gasoline promotion tax credit
52.31(422)	Biodiesel blended fuel tax credit
52.32(422)	Soy-based transformer fluid tax credit
52.33(175,422)	Agricultural assets transfer tax credit
52.34(15,422)	Film qualified expenditure tax credit
52.35(15,422)	Film investment tax credit
52.36(422)	Ethanol promotion tax credit
52.37(422)	Charitable conservation contribution tax credit
52.38(422)	School tuition organization tax credit
52.39(15,422)	Redevelopment tax credit
52.40(15)	High quality jobs program
52.41(15)	Aggregate tax credit limit for certain economic development programs
52.42(16,422)	Disaster recovery housing project tax credit
52.43(422)	E-15 plus gasoline promotion tax credit
52.44(422)	Solar energy system tax credit

CHAPTER 53
DETERMINATION OF NET INCOME

53.1(422)	Computation of net income for corporations
53.2(422)	Net operating loss carrybacks and carryovers

53.3(422)	Capital loss carryback
53.4(422)	Net operating and capital loss carrybacks and carryovers
53.5(422)	Interest and dividends from federal securities
53.6(422)	Interest and dividends from foreign securities, and securities of state and their political subdivisions
53.7(422)	Safe harbor leases
53.8(422)	Additions to federal taxable income
53.9(422)	Gains and losses on property acquired before January 1, 1934
53.10(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
53.11(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
53.12(422)	Federal income tax deduction
53.13(422)	Iowa income taxes and Iowa tax refund
53.14(422)	Method of accounting, accounting period
53.15(422)	Consolidated returns
53.16(422)	Federal rulings and regulations
53.17(422)	Depreciation of speculative shell buildings
53.18(422)	Deduction of multipurpose vehicle registration fee
53.19(422)	Deduction of foreign dividends
53.20(422)	Employer social security credit for tips
53.21(422)	Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
53.22(422)	Additional first-year depreciation allowance
53.23(422)	Section 179 expensing
53.24(422)	Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
53.25(422)	Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects
53.26(422)	Exclusion of biodiesel production refund

CHAPTER 54

ALLOCATION AND APPORTIONMENT

54.1(422)	Basis of corporate tax
54.2(422)	Allocation or apportionment of investment income
54.3(422)	Application of related expense to allocable interest, dividends, rents and royalties—tax periods beginning on or after January 1, 1978
54.4(422)	Net gains and losses from the sale of assets
54.5(422)	Where income is derived from the manufacture or sale of tangible personal property
54.6(422)	Apportionment of income derived from business other than the manufacture or sale of tangible personal property
54.7(422)	Apportionment of income of transportation, communications, and certain public utilities corporations
54.8(422)	Apportionment of income derived from more than one business activity carried on within a single corporate structure
54.9(422)	Allocation and apportionment of income in special cases

CHAPTER 55

ASSESSMENTS, REFUNDS, APPEALS

55.1(422)	Notice of discrepancies
55.2(422)	Notice of assessment
55.3(422)	Refund of overpaid tax

- 55.4(421) Abatement of tax
- 55.5(422) Protests

CHAPTER 56

ESTIMATED TAX FOR CORPORATIONS

- 56.1(422) Who must pay estimated tax
- 56.2(422) Time for filing and payment of tax
- 56.3(422) Special estimate periods
- 56.4(422) Reporting forms
- 56.5(422) Penalties
- 56.6(422) Overpayment of estimated tax

TITLE VII
FRANCHISE

CHAPTER 57

ADMINISTRATION

- 57.1(422) Definitions
- 57.2(422) Statutes of limitation
- 57.3(422) Retention of records
- 57.4(422) Authority for deductions
- 57.5(422) Jeopardy assessments
- 57.6(422) Information deemed confidential
- 57.7(422) Power of attorney
- 57.8(422) Delegation to audit and examine

CHAPTER 58

FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,
AND TAX CREDITS

- 58.1(422) Who must file
- 58.2(422) Time and place for filing return
- 58.3(422) Form for filing
- 58.4(422) Payment of tax
- 58.5(422) Minimum tax
- 58.6(422) Refunds and overpayments
- 58.7(422) Allocation of franchise tax revenues
- 58.8(15E) Eligible housing business tax credit
- 58.9(15E) Eligible development business investment tax credit
- 58.10(422) Historic preservation and cultural and entertainment district tax credit
- 58.11(15E,422) Venture capital credits
- 58.12(15) New capital investment program tax credits
- 58.13(15E,422) Endow Iowa tax credit
- 58.14(15I,422) Wage-benefits tax credit
- 58.15(422,476B) Wind energy production tax credit
- 58.16(422,476C) Renewable energy tax credit
- 58.17(15) High quality job creation program
- 58.18(15E,422) Economic development region revolving fund tax credit
- 58.19(15,422) Film qualified expenditure tax credit
- 58.20(15,422) Film investment tax credit
- 58.21(15) High quality jobs program

CHAPTER 59

DETERMINATION OF NET INCOME

- 59.1(422) Computation of net income for financial institutions
- 59.2(422) Net operating loss carrybacks and carryovers
- 59.3(422) Capital loss carryback
- 59.4(422) Net operating and capital loss carrybacks and carryovers
- 59.5(422) Interest and dividends from federal securities
- 59.6(422) Interest and dividends from foreign securities and securities of states and other political subdivisions
- 59.7(422) Safe harbor leases
- 59.8(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
- 59.9(422) Work opportunity tax credit
- 59.10 Reserved
- 59.11(422) Gains and losses on property acquired before January 1, 1934
- 59.12(422) Federal income tax deduction
- 59.13(422) Iowa franchise taxes
- 59.14(422) Method of accounting, accounting period
- 59.15(422) Consolidated returns
- 59.16(422) Federal rulings and regulations
- 59.17 Reserved
- 59.18(422) Depreciation of speculative shell buildings
- 59.19(422) Deduction of multipurpose vehicle registration fee
- 59.20(422) Disallowance of expenses to carry an investment subsidiary for tax years which begin on or after January 1, 1995
- 59.21(422) S corporation and limited liability company financial institutions
- 59.22(422) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
- 59.23(422) Additional first-year depreciation allowance
- 59.24(422) Section 179 expensing

ALLOCATION AND APPORTIONMENT

- 59.25(422) Basis of franchise tax
- 59.26(422) Allocation and apportionment
- 59.27(422) Net gains and losses from the sale of assets
- 59.28(422) Apportionment factor
- 59.29(422) Allocation and apportionment of income in special cases

CHAPTER 60

ASSESSMENTS, REFUNDS, APPEALS

- 60.1(422) Notice of discrepancies
- 60.2(422) Notice of assessment
- 60.3(422) Refund of overpaid tax
- 60.4(421) Abatement of tax
- 60.5(422) Protests

CHAPTER 61

ESTIMATED TAX FOR FINANCIAL INSTITUTIONS

- 61.1(422) Who must pay estimated tax
- 61.2(422) Time for filing and payment of tax
- 61.3(422) Special estimate periods
- 61.4(422) Reporting forms

- 61.5(422) Penalties
- 61.6(422) Overpayment of estimated tax

CHAPTERS 62 to 66
Reserved

TITLE VIII
MOTOR FUEL

CHAPTER 67
ADMINISTRATION

- 67.1(452A) Definitions
- 67.2(452A) Statute of limitations, supplemental assessments and refund adjustments
- 67.3(452A) Taxpayers required to keep records
- 67.4(452A) Audit—costs
- 67.5(452A) Estimate gallonage
- 67.6(452A) Timely filing of returns, reports, remittances, applications, or requests
- 67.7(452A) Extension of time to file
- 67.8(452A) Penalty and interest
- 67.9(452A) Penalty and enforcement provisions
- 67.10(452A) Application of remittance
- 67.11(452A) Reports, returns, records—variations
- 67.12(452A) Form of invoice
- 67.13(452A) Credit card invoices
- 67.14(452A) Original invoice retained by purchaser—certified copy if lost
- 67.15(452A) Taxes erroneously or illegally collected
- 67.16(452A) Credentials and receipts
- 67.17(452A) Information confidential
- 67.18(452A) Delegation to audit and examine
- 67.19(452A) Practice and procedure before the department of revenue
- 67.20(452A) Time for filing protest
- 67.21(452A) Bonding procedure
- 67.22(452A) Tax refund offset
- 67.23(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses
- 67.24(452A) Reinstatement of license canceled for cause
- 67.25(452A) Fuel used in implements of husbandry
- 67.26(452A) Excess tax collected
- 67.27(452A) Retailer gallons report

CHAPTER 68
MOTOR FUEL AND UNDYED SPECIAL FUEL

- 68.1(452A) Definitions
- 68.2(452A) Tax rates—time tax attaches—responsible party
- 68.3(452A) Exemption
- 68.4(452A) Ethanol blended gasoline taxation—nonterminal location
- 68.5(452A) Tax returns—computations
- 68.6(452A) Distribution allowance
- 68.7(452A) Supplier credit—uncollectible account
- 68.8(452A) Refunds
- 68.9(452A) Claim for refund—payment of claim
- 68.10(452A) Refund permit
- 68.11(452A) Revocation of refund permit
- 68.12(452A) Income tax credit in lieu of refund
- 68.13(452A) Reduction of refund—sales tax

- 68.14(452A) Terminal withdrawals—meters
- 68.15(452A) Terminal and nonterminal storage facility reports and records
- 68.16(452A) Method of reporting taxable gallonage
- 68.17(452A) Transportation reports
- 68.18(452A) Bill of lading or manifest requirements

CHAPTER 69
LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS

- 69.1(452A) Definitions
- 69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax
- 69.3(452A) Penalty and interest
- 69.4(452A) Bonding procedure
- 69.5(452A) Persons authorized to place L.P.G. or C.N.G. in the fuel supply tank of a motor vehicle
- 69.6(452A) Requirements to be licensed
- 69.7(452A) Licensed metered pumps
- 69.8(452A) Single license for each location
- 69.9(452A) Dealer's and user's license nonassignable
- 69.10(452A) Separate storage—bulk sales—highway use
- 69.11(452A) Combined storage—bulk sales—highway sales or use
- 69.12(452A) Exemption certificates
- 69.13(452A) L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems
- 69.14(452A) Refunds
- 69.15(452A) Notice of meter seal breakage
- 69.16(452A) Location of records—L.P.G. or C.N.G. users and dealers

TITLE IX
PROPERTY

CHAPTER 70
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

- 70.1(437A) Who must file return
- 70.2(437A) Time and place for filing return
- 70.3(437A) Form for filing
- 70.4(437A) Payment of tax
- 70.5(437A) Statute of limitations
- 70.6(437A) Billings
- 70.7(437A) Refunds
- 70.8(437A) Abatement of tax
- 70.9(437A) Taxpayers required to keep records
- 70.10(437A) Credentials
- 70.11(437A) Audit of records
- 70.12(437A) Collections/reimbursements
- 70.13(437A) Information confidential

DIVISION II
STATEWIDE PROPERTY TAX

- 70.14(437A) Who must file return
- 70.15(437A) Time and place for filing return
- 70.16(437A) Form for filing

70.17(437A)	Payment of tax
70.18(437A)	Statute of limitations
70.19(437A)	Billings
70.20(437A)	Refunds
70.21(437A)	Abatement of tax
70.22(437A)	Taxpayers required to keep records
70.23(437A)	Credentials
70.24(437A)	Audit of records

CHAPTER 71

ASSESSMENT PRACTICES AND EQUALIZATION

71.1(405,427A,428,441,499B)	Classification of real estate
71.2(421,428,441)	Assessment and valuation of real estate
71.3(421,428,441)	Valuation of agricultural real estate
71.4(421,428,441)	Valuation of residential real estate
71.5(421,428,441)	Valuation of commercial real estate
71.6(421,428,441)	Valuation of industrial land and buildings
71.7(421,427A,428,441)	Valuation of industrial machinery
71.8(428,441)	Abstract of assessment
71.9(428,441)	Reconciliation report
71.10(421)	Assessment/sales ratio study
71.11(441)	Equalization of assessments by class of property
71.12(441)	Determination of aggregate actual values
71.13(441)	Tentative equalization notices
71.14(441)	Hearings before the director
71.15(441)	Final equalization order
71.16(441)	Alternative method of implementing equalization orders
71.17(441)	Special session of boards of review
71.18(441)	Judgment of assessors and local boards of review
71.19(441)	Conference boards
71.20(441)	Board of review
71.21(421,17A)	Property assessment appeal board
71.22(428,441)	Assessors
71.23 and 71.24	Reserved
71.25(441,443)	Omitted assessments
71.26(441)	Assessor compliance

CHAPTER 72

EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

72.1(441)	Application for examination
72.2(441)	Examinations
72.3(441)	Equivalent of high school diploma
72.4(441)	Appraisal-related experience
72.5(441)	Regular certification
72.6(441)	Temporary certification
72.7	Reserved
72.8(441)	Deputy assessors—regular certification
72.9	Reserved
72.10(441)	Appointment of deputy assessors
72.11(441)	Special examinations
72.12(441)	Register of eligible candidates
72.13(441)	Course of study for provisional appointees

- 72.14(441) Examining board
- 72.15(441) Appointment of assessor
- 72.16(441) Reappointment of assessor
- 72.17(441) Removal of assessor
- 72.18(421,441) Courses offered by the department of revenue

CHAPTER 73

PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

- 73.1(425) Eligible claimants
- 73.2(425) Separate homesteads—husband and wife property tax credit
- 73.3(425) Dual claims
- 73.4(425) Multipurpose building
- 73.5(425) Multidwelling
- 73.6(425) Income
- 73.7(425) Joint tenancy
- 73.8(425) Amended claim
- 73.9(425) Simultaneous homesteads
- 73.10(425) Confidential information
- 73.11(425) Mobile, modular, and manufactured homes
- 73.12(425) Totally disabled
- 73.13(425) Nursing homes
- 73.14(425) Household
- 73.15(425) Homestead
- 73.16(425) Household income
- 73.17(425) Timely filing of claims
- 73.18(425) Separate homestead—husband and wife rent reimbursements
- 73.19(425) Gross rent/rent constituting property taxes paid
- 73.20(425) Leased land
- 73.21(425) Property: taxable status
- 73.22(425) Special assessments
- 73.23(425) Suspended, delinquent, or canceled taxes
- 73.24(425) Income: spouse
- 73.25(425) Common law marriage
- 73.26 Reserved
- 73.27(425) Special assessment credit
- 73.28(425) Credit applied
- 73.29(425) Deceased claimant
- 73.30(425) Audit of claim
- 73.31(425) Extension of time for filing a claim
- 73.32(425) Annual adjustment factor
- 73.33(425) Proration of claims
- 73.34(425) Unreasonable hardship

CHAPTER 74

MOBILE, MODULAR, AND MANUFACTURED HOME TAX

- 74.1(435) Definitions
- 74.2(435) Movement of home to another county
- 74.3(435) Sale of home
- 74.4(435) Reduced tax rate
- 74.5(435) Taxation—real estate
- 74.6(435) Taxation—square footage

- 74.7(435) Audit by department of revenue
- 74.8(435) Collection of tax

CHAPTER 75

PROPERTY TAX ADMINISTRATION

- 75.1(441) Tax year
- 75.2(445) Partial payment of tax
- 75.3(445) When delinquent
- 75.4(446) Payment of subsequent year taxes by purchaser
- 75.5(428,433,434,437,437A,438) Central assessment confidentiality
- 75.6(446) Tax sale
- 75.7(445) Refund of tax
- 75.8(614) Delinquent property taxes

CHAPTER 76

DETERMINATION OF VALUE OF RAILROAD COMPANIES

- 76.1(434) Definitions of terms
- 76.2(434) Filing of annual reports
- 76.3(434) Comparable sales
- 76.4(434) Stock and debt approach to unit value
- 76.5(434) Income capitalization approach to unit value
- 76.6(434) Cost approach to unit value
- 76.7(434) Correlation
- 76.8(434) Allocation of unit value to state
- 76.9(434) Exclusions

CHAPTER 77

DETERMINATION OF VALUE OF UTILITY COMPANIES

- 77.1(428,433,437,438) Definition of terms
- 77.2(428,433,437,438) Filing of annual reports
- 77.3(428,433,437,438) Comparable sales
- 77.4(428,433,437,438) Stock and debt approach to unit value
- 77.5(428,433,437,438) Income capitalization approach to unit value
- 77.6(428,433,437,438) Cost approach to unit value
- 77.7(428,433,437,438) Correlation
- 77.8(428,433,437,438) Allocation of unit value to state

CHAPTER 78

Reserved

CHAPTER 79

REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

- 79.1(428A) Real estate transfer tax: Responsibility of county recorders
- 79.2(428A) Taxable status of real estate transfers
- 79.3(428A) Declarations of value: Responsibility of county recorders and city and county assessors
- 79.4(428A) Certain transfers of agricultural realty
- 79.5(428A) Form completion and filing requirements
- 79.6(428A) Public access to declarations of value

CHAPTER 80

PROPERTY TAX CREDITS AND EXEMPTIONS

- 80.1(425) Homestead tax credit
- 80.2(22,35,426A) Military service tax exemption

80.3(427)	Pollution control and recycling property tax exemption
80.4(427)	Low-rent housing for the elderly and persons with disabilities
80.5(427)	Speculative shell buildings
80.6(427B)	Industrial property tax exemption
80.7(427B)	Assessment of computers and industrial machinery and equipment
80.8(404)	Urban revitalization partial exemption
80.9(427C,441)	Forest and fruit-tree reservations
80.10(427B)	Underground storage tanks
80.11(425A)	Family farm tax credit
80.12(427)	Methane gas conversion property
80.13(427B,476B)	Wind energy conversion property
80.14(427)	Mobile home park storm shelter
80.15(427)	Barn and one-room schoolhouse preservation
80.16(426)	Agricultural land tax credit
80.17(427)	Indian housing property
80.18(427)	Property used in value-added agricultural product operations
80.19(427)	Dwelling unit property within certain cities
80.20(427)	Nursing facilities
80.21(368)	Annexation of property by a city
80.22(427)	Port authority
80.23(427A)	Concrete batch plants and hot mix asphalt facilities
80.24(427)	Airport property
80.25(427A)	Car wash equipment
80.26(427)	Web search portal and data center business property
80.27(427)	Privately owned libraries and art galleries
80.28(404B)	Disaster revitalization area
80.29(427)	Geothermal heating and cooling systems installed on property classified as residential
80.30 to 80.49	Reserved
80.50(427,441)	Responsibility of local assessors
80.51(441)	Responsibility of local boards of review
80.52(427)	Responsibility of director of revenue
80.53(427)	Application for exemption
80.54(427)	Partial exemptions
80.55(427,441)	Taxable status of property
80.56(427)	Abatement of taxes

TITLE X
CIGARETTES AND TOBACCO

CHAPTER 81
ADMINISTRATION

81.1(453A)	Definitions
81.2(453A)	Credentials and receipts
81.3(453A)	Examination of records
81.4(453A)	Records
81.5(453A)	Form of invoice
81.6(453A)	Audit of records—cost, supplemental assessments and refund adjustments
81.7(453A)	Bonds
81.8(98)	Penalties
81.9(98)	Interest
81.10(98)	Waiver of penalty or interest
81.11(453A)	Appeal—practice and procedure before the department

- 81.12(453A) Permit—license revocation
- 81.13(453A) Permit applications and denials
- 81.14(453A) Confidential information
- 81.15(98) Request for waiver of penalty
- 81.16(453A) Inventory tax

CHAPTER 82 CIGARETTE TAX

- 82.1(453A) Permits required
- 82.2(453A) Partial year permits—payment—refund—exchange
- 82.3(453A) Bond requirements
- 82.4(453A) Cigarette tax—attachment—exemption—exclusivity of tax
- 82.5(453A) Cigarette tax stamps
- 82.6(453A) Banks authorized to sell stamps—requirements—restrictions
- 82.7(453A) Purchase of cigarette tax stamps—discount
- 82.8(453A) Affixing stamps
- 82.9(453A) Reports
- 82.10(453A) Manufacturer's samples
- 82.11(453A) Refund of tax—unused and destroyed stamps

CHAPTER 83 TOBACCO TAX

- 83.1(453A) Licenses
- 83.2(453A) Distributor bond
- 83.3(453A) Tax on tobacco products
- 83.4(453A) Tax on little cigars
- 83.5(453A) Distributor discount
- 83.6(453A) Distributor returns
- 83.7(453A) Consumer's return
- 83.8(453A) Transporter's report
- 83.9(453A) Free samples
- 83.10(453A) Credits and refunds of taxes
- 83.11(453A) Sales exempt from tax
- 83.12(81GA,HF339) Retail permits required
- 83.13(81GA,HF339) Permit issuance fee
- 83.14(81GA,HF339) Refunds of permit fee
- 83.15(81GA,HF339) Application for permit
- 83.16(81GA,HF339) Records and reports
- 83.17(81GA,HF339) Penalties

CHAPTER 84 UNFAIR CIGARETTE SALES

- 84.1(421B) Definitions
- 84.2(421B) Minimum price
- 84.3(421B) Combination sales
- 84.4(421B) Retail redemption of coupons
- 84.5(421B) Exempt sales
- 84.6(421B) Notification of manufacturer's price increase
- 84.7(421B) Permit revocation

CHAPTER 85 TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I TOBACCO MASTER SETTLEMENT AGREEMENT

85.1(453C)	National uniform tobacco settlement
85.2(453C)	Definitions
85.3(453C)	Report required
85.4(453C)	Report information
85.5(453C)	Record-keeping requirement
85.6(453C)	Confidentiality
85.7 to 85.20	Reserved

DIVISION II TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

85.21(80GA,SF375)	Definitions
85.22(80GA,SF375)	Directory of tobacco product manufacturers

TITLE XI *INHERITANCE, ESTATE, GENERATION SKIPPING, AND FIDUCIARY INCOME TAX*

CHAPTER 86 INHERITANCE TAX

86.1(450)	Administration
86.2(450)	Inheritance tax returns and payment of tax
86.3(450)	Audits, assessments and refunds
86.4(450)	Appeals
86.5(450)	Gross estate
86.6(450)	The net estate
86.7(450)	Life estate, remainder and annuity tables—in general
86.8(450B)	Special use valuation
86.9(450)	Market value in the ordinary course of trade
86.10(450)	Alternate valuation date
86.11(450)	Valuation—special problem areas
86.12(450)	The inheritance tax clearance
86.13(450)	No lien on the surviving spouse's share of the estate
86.14(450)	Computation of shares
86.15(450)	Applicability

CHAPTER 87 IOWA ESTATE TAX

87.1(451)	Administration
87.2(451)	Confidential and nonconfidential information
87.3(451)	Tax imposed, tax returns, and tax due
87.4(451)	Audits, assessments and refunds
87.5(451)	Appeals
87.6(451)	Applicable rules

CHAPTER 88 GENERATION SKIPPING TRANSFER TAX

88.1(450A)	Administration
88.2(450A)	Confidential and nonconfidential information
88.3(450A)	Tax imposed, tax due and tax returns
88.4(450A)	Audits, assessments and refunds

- 88.5(450A) Appeals
- 88.6(450A) Generation skipping transfers prior to Public Law 99-514

CHAPTER 89 FIDUCIARY INCOME TAX

- 89.1(422) Administration
- 89.2(422) Confidentiality
- 89.3(422) Situs of trusts
- 89.4(422) Fiduciary returns and payment of the tax
- 89.5(422) Extension of time to file and pay the tax
- 89.6(422) Penalties
- 89.7(422) Interest or refunds on net operating loss carrybacks
- 89.8(422) Reportable income and deductions
- 89.9(422) Audits, assessments and refunds
- 89.10(422) The income tax certificate of acquittance
- 89.11(422) Appeals to the director

CHAPTER 90 Reserved

TITLE XII *MARIJUANA AND CONTROLLED SUBSTANCES STAMP TAX*

CHAPTER 91 ADMINISTRATION OF MARIJUANA AND CONTROLLED SUBSTANCES STAMP TAX

- 91.1(453B) Marijuana and controlled substances stamp tax
- 91.2(453B) Sales of stamps
- 91.3(453B) Refunds pertaining to unused stamps

CHAPTERS 92 to 96 Reserved

TITLE XIII

CHAPTERS 97 to 101 Reserved

TITLE XIV *HOTEL AND MOTEL TAX*

CHAPTER 102 Reserved

CHAPTER 103 STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES—ADMINISTRATION

- 103.1(423A) Definitions, administration, and imposition
- 103.2(423A) Statute of limitations, supplemental assessments and refund adjustments
- 103.3(423A) Credentials and receipts
- 103.4(423A) Retailers required to keep records
- 103.5(423A) Audit of records
- 103.6(423A) Billings
- 103.7(423A) Collections
- 103.8(423A) No property exempt from distress and sale
- 103.9(423A) Information confidential

103.10(423A)	Bonding procedure
103.11(423A)	Sales tax
103.12(423A)	Judicial review
103.13(423A)	Registration
103.14(423A)	Notification
103.15(423A)	Certification of funds

CHAPTER 104 HOTEL AND MOTEL—

FILING RETURNS, PAYMENT OF TAX, PENALTY, AND INTEREST

104.1(423A)	Returns, time for filing
104.2(423A)	Remittances
104.3(423A)	Permits
104.4(423A)	Sale of business
104.5(423A)	Bankruptcy, insolvency or assignment for benefit of creditors
104.6(423A)	Claim for refund of tax
104.7(423A)	Application of payments
104.8(423A)	Interest and penalty
104.9(423A)	Request for waiver of penalty
104.10(423A)	Extension of time for filing
104.11(421,423A)	Personal liability of corporate officers and partners for unpaid tax
104.12(421,423A)	Good faith exception for successor liability

CHAPTER 105 LOCALLY IMPOSED HOTEL AND MOTEL TAX

105.1(423A)	Local option
105.2(423A)	Tax rate
105.3(423A)	Tax base
105.4(423A)	Imposition dates
105.5(423A)	Adding or absorbing tax
105.6(423A)	Termination dates

CHAPTER 106 Reserved

TITLE XV *LOCAL OPTION SALES AND SERVICE TAX*

CHAPTER 107 LOCAL OPTION SALES AND SERVICE TAX

107.1(422B)	Definitions
107.2(422B)	Local option sales and service tax
107.3(422B)	Transactions subject to and excluded from local option sales tax
107.4(422B)	Transactions subject to and excluded from local option service tax
107.5(422B)	Single contracts for taxable services performed partly within and partly outside of an area of a county imposing the local option service tax
107.6(422B)	Motor vehicle, recreational vehicle, and recreational boat rental subject to local option service tax
107.7(422B)	Special rules regarding utility payments
107.8(423B)	Contacts with county necessary to impose collection obligation upon a retailer
107.9(423B,423E)	Sales not subject to local option tax, including transactions subject to Iowa use tax
107.10(422B)	Local option sales and service tax payments to local governments
107.11(422B)	Procedure if county of receipt's origins is unknown

- 107.12(422B) Computation of local option tax due from mixed sales on excursion boats
- 107.13(421,422B) Officers and partners, personal liability for unpaid tax
- 107.14(422B) Local option sales and service tax imposed by a city
- 107.15(422B) Application of payments
- 107.16(422B) Construction contractor refunds
- 107.17(422B,422E) Discretionary application of local option tax revenues

CHAPTER 108
LOCAL OPTION SCHOOL INFRASTRUCTURE
SALES AND SERVICE TAX

- 108.1(422E) Definitions
- 108.2(422E) Authorization, rate of tax, imposition, use of revenues, and administration
- 108.3(422E) Collection of the tax
- 108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107
- 108.5(422E) Sales not subject to local option tax, including transactions subject to Iowa use tax
- 108.6(422E) Deposits of receipts
- 108.7(422E) Local option school infrastructure sales and service tax payments to school districts
- 108.8(422E) Construction contract refunds
- 108.9(422E) 28E agreements

CHAPTER 109
NEW SCHOOL INFRASTRUCTURE LOCAL OPTION SALES AND SERVICES TAX—
EFFECTIVE ON OR AFTER APRIL 1, 2003, THROUGH FISCAL YEARS
ENDING DECEMBER 31, 2022

- 109.1(422E) Use of revenues and definitions
- 109.2(422E) Imposition of tax
- 109.3(422E) Application of law
- 109.4(422E) Collection of tax and distribution
- 109.5(422E) Insufficient funds
- 109.6(422E) Use of revenues by the school district
- 109.7(422E) Bonds
- 109.8(422E) 28E agreements

CHAPTERS 110 to 119
Reserved

TITLE XVI
REASSESSMENT EXPENSE FUND

CHAPTER 120
REASSESSMENT EXPENSE FUND

- 120.1(421) Reassessment expense fund
- 120.2(421) Application for loan
- 120.3(421) Criteria for granting loan

CHAPTER 121
Reserved

TITLE XVII
ASSESSOR CONTINUING EDUCATION

CHAPTER 122
ADMINISTRATION

- 122.1(441) Establishment
- 122.2(441) General operation
- 122.3(441) Location
- 122.4(441) Purpose

CHAPTER 123
CERTIFICATION

- 123.1(441) General
- 123.2(441) Confidentiality
- 123.3(441) Certification of assessors
- 123.4(441) Certification of deputy assessors
- 123.5(441) Type of credit
- 123.6(441) Retaking examination
- 123.7(441) Instructor credit
- 123.8(441) Conference board and assessor notification
- 123.9(441) Director of revenue notification

CHAPTER 124
COURSES

- 124.1(441) Course selection
- 124.2(441) Scheduling of courses
- 124.3(441) Petitioning to add, delete or modify courses
- 124.4(441) Course participation
- 124.5(441) Retaking a course
- 124.6(441) Continuing education program for assessors

CHAPTER 125
REVIEW OF AGENCY ACTION

- 125.1(441) Decisions final
- 125.2(441) Grievance and appeal procedures

CHAPTERS 126 to 149
Reserved

TITLE XVIII
DEBT COLLECTION

CHAPTER 150
FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

- 150.1(421,26USC6402) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation
- 150.2(421,26USC6402) Definitions
- 150.3(421,26USC6402) Prerequisites for requesting a federal offset
- 150.4(421,26USC6402) Procedure after submission of evidence
- 150.5(421,26USC6402) Notice by Iowa to the Secretary to request federal offset
- 150.6(421,26USC6402) Erroneous payments to Iowa
- 150.7(421,26USC6402) Correcting and updating notice to the Secretary

CHAPTER 151
COLLECTION OF DEBTS OWED THE STATE
OF IOWA OR A STATE AGENCY

- 151.1(421) Definitions
- 151.2(421) Scope and purpose
- 151.3(421) Participation guidelines
- 151.4(421) Duties of the agency
- 151.5(421) Duties of the department—performance of collection
- 151.6(421) Payment of collected amounts
- 151.7(421) Reimbursement for collection of liabilities
- 151.8(421) Confidentiality of information
- 151.9(421) Subpoena of records from public or private utility companies

CHAPTER 152
DEBT COLLECTION AND SELLING OF PROPERTY
TO COLLECT DELINQUENT DEBTS

- 152.1(421,422,626,642) Definitions
- 152.2(421,422,626,642) Sale of property
- 152.3(421,422,626,642) Means of sale

CHAPTER 153
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR
A STATE AGENCY

- 153.1(272D) Definitions
- 153.2(272D) Purpose and use
- 153.3(272D) Challenge to issuance of certificate of noncompliance
- 153.4(272D) Use of information
- 153.5(272D) Notice to person of potential sanction of license
- 153.6(272D) Conference
- 153.7(272D) Issuance of certificate of noncompliance
- 153.8(272D) Stay of certificate of noncompliance
- 153.9(272D) Written agreements
- 153.10(272D) Decision of the unit
- 153.11(272D) Withdrawal of certificate of noncompliance
- 153.12(272D) Certificate of noncompliance to licensing authority
- 153.13(272D) Requirements of the licensing authority
- 153.14(272D) District court hearing

CHAPTER 154
CHALLENGES TO ADMINISTRATIVE LEVIES AND
PUBLICATION OF NAMES OF DEBTORS

- 154.1(421) Definitions
- 154.2(421) Administrative levies
- 154.3(421) Challenges to administrative levies
- 154.4(421) Form and time of challenge
- 154.5(421) Issues that may be raised
- 154.6(421) Review of challenge
- 154.7(421) Actions where there is a mistake of fact
- 154.8(421) Action if there is not a mistake of fact
- 154.9 to 154.15 Reserved
- 154.16(421) List for publication
- 154.17(421) Names to be published
- 154.18(421) Release of information

CHAPTERS 155 to 210

Reserved

TITLE XIX

STREAMLINED SALES AND USE TAX RULES

CHAPTER 211

DEFINITIONS

211.1(423) Definitions

CHAPTER 212

ELEMENTS INCLUDED IN AND EXCLUDED
FROM A TAXABLE SALE AND SALES PRICE

212.1(423) Tax not to be included in price
212.2(423) Finance charge
212.3(423) Retailers' discounts, trade discounts, rebates and coupons
212.4(423) Excise tax included in and excluded from sales price
212.5(423) Trade-ins
212.6(423) Installation charges when tangible personal property is sold at retail
212.7(423) Service charge and gratuity
212.8(423) Payment from a third party

CHAPTER 213

MISCELLANEOUS TAXABLE SALES

213.1(423) Tax imposed
213.2(423) Athletic events
213.3(423) Conditional sales contracts
213.4(423) The sales price of sales of butane, propane and other like gases in cylinder drums,
etc.
213.5(423) Antiques, curios, old coins, collector's postage stamps, and currency exchanged
for greater than face value
213.6(423) Communication services furnished by hotel to its guests
213.7(423) Consignment sales
213.8(423) Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates,
wood mounts and art productions
213.9(423) Explosives used in mines, quarries and elsewhere
213.10(423) Sales on layaway
213.11(423) Memorial stones
213.12(423) Creditors and trustees
213.13(423) Sale of pets
213.14(423) Redemption of meal tickets, coupon books and merchandise cards as a taxable sale
213.15(423) Rental of personal property in connection with the operation of amusements
213.16(423) Repossessed goods
213.17(423) Sales of signs at retail
213.18(423) Tangible personal property made to order
213.19(423) Used or secondhand tangible personal property
213.20(423) Carpeting and other floor coverings
213.21(423) Goods damaged in transit
213.22(423) Snowmobiles, motorboats, and certain other vehicles
213.23(423) Photographers and photostaters
213.24(423) Sale, transfer or exchange of tangible personal property or taxable enumerated
services between affiliated corporations
213.25(423) Urban transit systems

CHAPTER 214

MISCELLANEOUS NONTAXABLE TRANSACTIONS

- 214.1(423) Corporate mergers which do not involve taxable sales of tangible personal property or services
- 214.2(423) Sales of prepaid merchandise cards
- 214.3(423) Demurrage charges
- 214.4(423) Beverage container deposits
- 214.5(423) Exempt sales by excursion boat licensees
- 214.6(423) Advertising agencies, commercial artists and designers as an agent or as a nonagent of a client

CHAPTERS 215 to 218

Reserved

CHAPTER 219

SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

- 219.1(423) General information
- 219.2(423) Contractors—consumers of building materials, supplies, and equipment by statute
- 219.3(423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
- 219.4(423) Contractors, subcontractors or builders who are retailers
- 219.5(423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
- 219.6(423) Tangible personal property used or consumed by the manufacturer thereof
- 219.7(423) Prefabricated structures
- 219.8(423) Types of construction contracts
- 219.9(423) Machinery and equipment sales contracts with installation
- 219.10(423) Construction contracts with equipment sales (mixed contracts)
- 219.11(423) Distinguishing machinery and equipment from real property
- 219.12(423) Tangible personal property which becomes structures
- 219.13(423) Tax on enumerated services
- 219.14(423) Transportation cost
- 219.15(423) Start-up charges
- 219.16(423) Liability of subcontractors
- 219.17(423) Liability of sponsors
- 219.18(423) Withholding
- 219.19(423) Resale certificates
- 219.20(423) Reporting for use tax
- 219.21(423) Exempt sale, lease, or rental of equipment used by contractors, subcontractors, or builders

CHAPTERS 220 to 222

Reserved

CHAPTER 223

SOURCING OF TAXABLE SERVICES

- 223.1(423) Definitions
- 223.2(423) General sourcing rules for taxable services
- 223.3(423) First use of services performed on tangible personal property
- 223.4(423) Sourcing rules for personal care services

CHAPTER 224
TELECOMMUNICATION SERVICES

- 224.1(423) Taxable telecommunication service and ancillary service
- 224.2(423) Definitions
- 224.3(423) Imposition of tax
- 224.4(423) Exempt from the tax
- 224.5(423) Bundled transactions in telecommunication service
- 224.6(423) Sourcing telecommunication service
- 224.7(423) General billing issues

CHAPTER 225
RESALE AND PROCESSING EXEMPTIONS PRIMARILY
OF BENEFIT TO RETAILERS

- 225.1(423) Paper or plastic plates, cups, and dishes, paper napkins, wooden or plastic spoons and forks, and straws
- 225.2(423) A service purchased for resale
- 225.3(423) Services used in the repair or reconditioning of certain tangible personal property
- 225.4(423) Tangible personal property purchased by a person engaged in the performance of a service
- 225.5(423) Maintenance or repair of fabric or clothing
- 225.6(423) The sales price from the leasing of all tangible personal property subject to tax
- 225.7(423) Certain inputs used in taxable vehicle wash and wax services

CHAPTER 226
AGRICULTURAL RULES

- 226.1(423) Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry
- 226.2(423) Packaging material used in agricultural production
- 226.3(423) Irrigation equipment used in agricultural production
- 226.4(423) Sale of a draft horse
- 226.5(423) Veterinary services
- 226.6(423) Commercial fertilizer and agricultural limestone
- 226.7(423) Sales of breeding livestock
- 226.8(423) Domesticated fowl
- 226.9(423) Agricultural health promotion items
- 226.10(423) Drainage tile
- 226.11(423) Materials used for seed inoculations
- 226.12(423) Fuel used in agricultural production
- 226.13(423) Water used in agricultural production
- 226.14(423) Bedding for agricultural livestock or fowl
- 226.15(423) Sales by farmers
- 226.16(423) Sales of livestock (including domesticated fowl) feeds
- 226.17(423) Farm machinery, equipment, and replacement parts used in livestock or dairy production
- 226.18(423) Machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants
- 226.19(423) Nonexclusive lists

CHAPTERS 227 to 229
Reserved

CHAPTER 230
EXEMPTIONS PRIMARILY BENEFITING MANUFACTURERS AND
OTHER PERSONS ENGAGED IN PROCESSING

230.1	Reserved
230.2(423)	Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing
230.3(423)	Services used in processing
230.4(423)	Chemicals, solvents, sorbents, or reagents used in processing
230.5(423)	Exempt sales of gases used in the manufacturing process
230.6(423)	Sale of electricity to water companies
230.7(423)	Wind energy conversion property
230.8(423)	Exempt sales or rentals of core making and mold making equipment, and sand handling equipment
230.9(423)	Chemical compounds used to treat water
230.10(423)	Exclusive web search portal business and its exemption
230.11(423)	Web search portal business and its exemption
230.12(423)	Large data center business exemption
230.13(423)	Data center business sales and use tax refunds

CHAPTER 231
EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS

231.1(423)	Newspapers, free newspapers and shoppers' guides
231.2(423)	Motor fuel, special fuel, aviation fuels and gasoline
231.3(423)	Sales of food and food ingredients
231.4(423)	Sales of candy
231.5(423)	Sales of prepared food
231.6(423)	Prescription drugs, medical devices, oxygen, and insulin
231.7(423)	Exempt sales of other medical devices which are not prosthetic devices
231.8(423)	Prosthetic devices, durable medical equipment, and mobility enhancing equipment
231.9(423)	Raffles
231.10(423)	Exempt sales of prizes
231.11(423)	Modular homes
231.12(423)	Access to on-line computer service
231.13(423)	Sale or rental of information services
231.14(423)	Exclusion from tax for property delivered by certain media
231.15(423)	Exempt sales of clothing and footwear during two-day period in August
231.16(423)	State sales tax phase-out on energies

CHAPTERS 232 to 234
Reserved

CHAPTER 235
REBATE OF IOWA SALES TAX PAID

235.1(423)	Sanctioned automobile racetrack facilities
235.2(423)	Sanctioned baseball and softball tournament facility and movie site

CHAPTERS 236 to 238
Reserved

CHAPTER 239
LOCAL OPTION SALES TAX URBAN RENEWAL PROJECTS

239.1(423B)	Urban renewal project
239.2(423B)	Definitions

239.3(423B)	Establishing sales and revenue growth
239.4(423B)	Requirements for cities adopting an ordinance
239.5(423B)	Identification of retail establishments
239.6(423B)	Calculation of base year taxable sales amount
239.7(423B)	Determination of tax growth increment amount
239.8(423B)	Distribution of tax base and growth increment amounts
239.9(423B)	Examples
239.10(423B)	Ordinance term

CHAPTER 240

RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES AND USE TAX AGREEMENT

240.1(423)	Allowing use of the lowest tax rate within a database area and use of the tax rate for a five-digit area when a nine-digit zip code cannot be used
240.2(423)	Permissible categories of exemptions
240.3(423)	Requirement of uniformity in the filing of returns and remittance of funds
240.4(423)	Allocation of bad debts
240.5(423)	Purchaser refund procedures
240.6(423)	Relief from liability for reliance on taxability matrix
240.7(423)	Effective dates of taxation rate increases or decreases when certain services are furnished
240.8(423)	Prospective application of defining “retail sale” to include a lease or rental

CHAPTER 241

EXCISE TAXES NOT GOVERNED BY THE STREAMLINED SALES AND USE TAX AGREEMENT

241.1(423A,423D)	Purpose of the chapter
241.2(423A,423D)	Director’s administration

DIVISION I STATE-IMPOSED HOTEL AND MOTEL TAX

241.3(423A)	Definitions
241.4(423A)	Imposition of tax
241.5(423A)	Exemptions

DIVISION II EXCISE TAX ON SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

241.6(423D)	Definitions
241.7(423D)	Tax imposed
241.8(423D)	Exemption

CHAPTER 80
PROPERTY TAX CREDITS AND EXEMPTIONS
[Prior to 12/17/86, Revenue Department[730]]

701—80.1(425) Homestead tax credit.

80.1(1) *Application for credit.*

a. No homestead tax credit shall be allowed unless the first application for homestead tax credit is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year. (1946 O.A.G. 37) Once filed, the claim for credit is applicable to subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant's spouse on July 1 of each year and, in addition, the claimant or the claimant's spouse occupies the homestead for at least six months during each calendar year in which the fiscal year for which the credit is claimed begins. It is not a requirement that the six-month period of time be consecutive. If the credit is disallowed and the claimant failed to give written notice to the assessor that the claimant ceased to use the property as a homestead, a civil penalty equal to 5 percent of the amount of the disallowed credit shall be assessed against the claimant in addition to the amount of credit allowed. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the homestead tax credit may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for homestead tax credit. If it is the opinion of the assessor that a homestead tax credit should not be allowed, the assessor shall accept the application for credit and recommend disallowance.

e. If the owner of the homestead is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for homestead tax credit may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

f. If a person makes a false application for credit with fraudulent intent to obtain the credit, the person is guilty of a fraudulent practice and the claim shall be disallowed. If the credit has been paid, the amount of the credit plus a penalty equal to 25 percent of the amount of the disallowed credit and interest shall be collected by the county treasurer.

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (Op. St. Bd. Tax Rev. No. 212, February 29, 1980.) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

80.1(2) *Eligibility for credit.*

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (1944 O.A.G. 26; Letter O.A.G. October 18, 1941)

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, other than a family farm corporation, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441; *Verne Deskin v. Briggs*, State Board of Tax Review, No. 24, February 1, 1972)

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned his or her equity in the homestead property as security for a loan. (1960 O.A.G. 263)

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainderman is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a nonprofit corporation organized under Iowa Code chapter 504A. (1938 O.A.G. 193)

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

g. A person occupying homestead property under a trust agreement is considered the owner of the property for purposes of the homestead tax credit. (1962 O.A.G. 434)

h. A remainder is not eligible to receive a homestead tax credit until expiration of the life estate to which such person has the remainder interest. (1938 O.A.G. 305)

i. In order for a person occupying homestead property under a contract of purchase to be eligible for a homestead tax credit, the contract of purchase must be recorded in the office of the county recorder where the property is located. A recorded memorandum or summary of the actual contract of purchase is not sufficient evidence of ownership to qualify a person for a homestead tax credit.

j. An owner of homestead property who is in the military service or confined in a nursing home, extended-care facility or hospital shall be considered as occupying the property during the period of service or confinement. The fact that the owner rents the property during the period of military service is immaterial to the granting of the homestead tax credit. (1942 O.A.G. 45) However, no homestead tax credit shall be allowed if the owner received a profit for the use of the property from another person while such owner is confined in a nursing home, extended-care facility or hospital.

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 82-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773.

l. An heir occupying homestead property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the homestead credit. (1938 O.A.G. 272)

80.1(3) Disabled veteran's homestead tax credit. The disabled veteran's homestead tax credit may be claimed by any person who acquired homestead property under 38 U.S.C. Sections 21.801 and 21.802 or Sections 2101 and 2102 provided the veteran's annual income and that of the veteran's spouse do not exceed \$35,000. The amount of the credit is equal to the entire amount of tax payable on the homestead. Even though this financial assistance is available to disabled veterans on only one homestead during their lifetime, the credit may be claimed upon the acquisition of other homesteads for which no financial assistance is available providing all qualifications have been met.

80.1(4) Application of credit.

a. Except as provided in 80.1(1) "a," if the homestead property is conveyed to another person prior to July 1 of any year, the new owner must file a claim for credit on or before July 1 to obtain the credit for that year. If the property is conveyed on or after July 1, the credit shall remain with the property for that year provided the previous owner was entitled to the credit. However, when the property is transferred as part of a distribution made pursuant to Iowa Code chapter 598 (Dissolution of Marriage) the transferee spouse retaining ownership and occupancy of the homestead is not required to refile for the credit.

b. A homestead tax credit may be allowed even though the property taxes levied against the homestead property have been suspended by the board of supervisors. (1938 O.A.G. 288)

c. A homestead tax credit shall not be allowed if the property taxes levied against the homestead property have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

d. Only one homestead tax credit can be allowed per legally described tract of land. For purposes of this rule, a legally described tract of land shall mean all land contained in a single legal description. (1962 O.A.G. 435)

e. If the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

f. If the homestead property contains two dwelling houses and one of the dwelling houses and a portion of the land is sold after a valid application for homestead tax credit has been filed, the assessor shall prorate the assessment so as to allow the seller a homestead tax credit on that portion of the property which is retained and also allow the purchaser a homestead tax credit on that portion of the property which is purchased, provided the purchaser files a valid application for homestead tax credit by July 1 of the claim year.

g. A homestead tax credit shall be allowed against the assessed value of the land on which a dwelling house did not exist as of January 1 of the year in which the credit is claimed provided a dwelling house is owned and occupied by the claimant on July 1 of that year.

h. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the credit estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code chapter 425 as amended by 2006 Iowa Acts, House File 2794.

701—80.2(22,35,426A) Military service tax exemption.

80.2(1) *Application for exemption.*

a. No military service tax exemption shall be allowed unless the first application for the military service tax exemption is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year (1970 O.A.G. 437). Once filed, the claim for exemption is applicable to subsequent years and no further filing shall be required provided the claimant or the claimant's spouse owns the property on July 1 of each year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 426A.14. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the military service tax exemption may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for a military service tax exemption. If it is the opinion of the assessor that a military service tax exemption should not be allowed, the assessor shall accept the application for exemption and recommend disallowance.

e. If the owner of the property is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for military service tax exemption may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

80.2(2) *Eligibility for exemption.*

a. A person who was discharged from the draft is not considered a veteran of the military service and is not entitled to a military service tax exemption. (1942 O.A.G. 79)

b. A military service tax exemption shall not be allowed to a person whose only service in the military was with a foreign government. (1932 O.A.G. 242; 1942 O.A.G. 79)

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active duty for less than 18 months must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code Supplement section 35.1. If former members were on active duty for at least 18 months, it is not necessary that their service be performed during one of the war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean

Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed during one of the war or conflict time periods, nor is there a minimum number of days a former member of the armed forces of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.

Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years. Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

d. With the exception of members of the Iowa national guard and members of the reserve forces of the United States who have served at least 20 years and continue to serve, a military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (*Jones v. Iowa State Tax Commission*, 247 Iowa 530, 74 N.W.2d 563, 567-1956; *In re Douglas A. Coyle*, State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44)

e. As used in Iowa Code subsection 426A.12(3), the term minor child means a person less than 18 years of age or less than 21 years of age and enrolled as a full-time student at an educational institution.

f. A veteran of more than one qualifying war period is entitled to only one military service tax exemption, which shall be the greater of the two exemptions. (1946 O.A.G. 71)

g. The person claiming a military service tax exemption must be an Iowa resident. However, the veteran need not be an Iowa resident if such person's exemption is claimed by a qualified individual enumerated in Iowa Code section 426A.12. (1942 O.A.G. 140)

h. A person who has a life estate interest in property may claim a military service tax exemption on such property. (1946 O.A.G. 155; 1976 O.A.G. 125)

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is held until expiration of the life estate. (1946 O.A.G. 155)

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

k. A divorced person may not claim the military service tax exemption of a former spouse who qualifies for the exemption. (Letter O.A.G. August 8, 1961)

l. A surviving spouse of a qualified veteran, upon remarriage, loses the right to claim the deceased veteran's military exemption as the surviving spouse is no longer an unremarried surviving spouse of the qualified veteran. (1950 O.A.G. 44)

m. An annulled marriage is considered to have never taken place and the parties to such a marriage are restored to their former status. Neither party to an annulled marriage can thereafter be considered a spouse or surviving spouse of the other party for purposes of receiving the military service tax exemption. (Op. Att'y. Gen. 61-8-10(L))

n. No military service tax exemption shall be allowed on property that is owned by a corporation, except for a family farm corporation where a shareholder occupies a homestead as defined in Iowa Code section 425.11(1), partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441)

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. 154) If property is solely owned by one spouse, the owner spouse may claim both exemptions on the property providing the nonowner spouse's exemption is not claimed on other property.

p. No military service tax exemption shall be allowed if on July 1 of the claim year, the claimant or the claimant's unremarried surviving spouse is no longer the owner of the property upon which the exemption was claimed.

q. A person shall not be denied a military service tax exemption even though the property upon which the exemption is claimed has been pledged to another person as security for a loan. (1960 O.A.G. 263)

r. A qualified veteran who has conveyed property to a trustee shall be eligible to receive a military service tax exemption on such property providing the trust agreement gives the claimant a beneficial interest in the property. (1962 O.A.G. 434)

s. A person owning property pursuant to Iowa Code chapter 499A or 499B is eligible for a military service tax exemption. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

t. The person claiming the exemption shall have recorded in the office of the county recorder evidence of property ownership and either the military certificate of satisfactory service or, for a current member of the Iowa national guard or a member of the reserve forces of the United States, the veteran's retirement points accounting statement issued by the armed forces of the United States or the state adjutant general. The military certificate of satisfactory service shall be considered a confidential record pursuant to Iowa Code section 22.7.

u. An heir of property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the military exemption.

80.2(3) Application of exemption.

a. When the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

b. If a portion of the property upon which a valid military service tax exemption was claimed is sold on or before July 1 of the year in which the exemption is claimed, the seller shall be allowed a military service tax exemption on that portion of the property which is retained by the seller on July 1. The purchaser is also eligible to receive a military service tax exemption on that portion of the property which was purchased, provided the purchaser is qualified for the exemptions and files a valid application for the exemption on or before July 1 of the claim year.

c. A military service tax exemption may be allowed even though the taxes levied on the property upon which the exemption is claimed have been suspended by the board of supervisors. (1938 O.A.G. 288)

d. A military service tax exemption shall not be allowed if the taxes levied on the property upon which the exemption is claimed have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

e. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the exemption estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and chapter 426A. [ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.3(427) Pollution control and recycling property tax exemption.

80.3(1) To secure an exemption for pollution control or recycling property, an application must be filed with the assessing authority on or before February 1 of the assessment year for which the exemption is first claimed. It is the responsibility of the taxpayer to secure the necessary certification from the department of natural resources in sufficient time to file the application for exemption with the assessing authority on or before February 1. An exemption for new pollution control or recycling property can be secured by filing an application with the assessing authority by February 1 of the assessment year following the year in which the property is installed or constructed. If no application is timely filed in that year, the property will first qualify for exemption in any subsequent year in which an application is filed with the assessing authority on or before February 1.

80.3(2) In the event February 1 falls on either a Saturday or Sunday, applications for the exemption may be filed the following Monday.

80.3(3) In the event February 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

80.3(4) No exemption shall be allowed unless the application is signed by the owner of the property or the owner's qualified designee.

80.3(5) An assessor may not refuse to accept an application for a pollution control exemption if timely filed and if the necessary certification has been obtained from the department of natural resources.

80.3(6) The sale, transfer, or lease of property does not affect its eligibility for exemption as long as the requirements of Iowa Code subsection 427.1(19) and rule 701—80.3(427), Iowa Administrative Code, are satisfied.

80.3(7) No exemption shall be allowed unless the department of natural resources has certified that the primary use of the property for which the taxpayer is seeking an exemption is to control or abate air or water pollution or to enhance the quality of any air or water in this state or that the primary use of the property is for recycling. Recycling property is property used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, waste paperboard, or waste wood products into new raw materials or products composed primarily of recycled material.

80.3(8) In the event that qualified property is assessed as a unit with other property not having a pollution control or recycling function, the exemption shall be limited to the increase in the assessed valuation of the unit which is attributable to the pollution control or recycling property.

EXAMPLE

Valuation of unit with pollution control or recycling property	\$100,000
Valuation of unit without pollution control or recycling property	<u>50,000</u>
Allowable amount of exemption	\$ 50,000

80.3(9) The value of property to be exempt from taxation shall be the fair and reasonable market value of such property as of January 1 of each year for which the exemption is claimed, rather than the original cost of such property.

80.3(10) An assessor shall not exempt property from taxation without first assessing the property for taxation and subsequently receiving an application for tax exemption from the taxpayer.

This rule is intended to implement Iowa Code Supplement section 427.1(19) as amended by 2006 Iowa Acts, House File 2633, and Iowa Code sections 427.1(18) and 441.21(1)(i).
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.4(427) Low-rent housing for the elderly and persons with disabilities.

80.4(1) As used in Iowa Code subsection 427.1(21), the term “nonprofit organization” means an organization, no part of the net income of which is distributable to its members, directors or officers.

80.4(2) As used in Iowa Code subsection 427.1(21), the term “low-rent housing” means housing the rent for which is less than that being received or which could be received for similar properties on the open market in the same assessing jurisdiction. Federal rent subsidies received by the occupant shall be excluded in determining whether the rental fee charged meets this definition.

80.4(3) As used in Iowa Code subsection 427.1(21), the term “elderly” means any person at least 62 years of age.

80.4(4) As used in Iowa Code subsection 427.1(21), the term “persons with physical or mental disabilities” means a person whose physical or mental condition is such that the person is unable to engage in substantial gainful employment.

80.4(5) The exemption granted in Iowa Code subsection 427.1(21) extends only to property which is owned and operated, or controlled, by a nonprofit organization recognized as such by the Internal Revenue Service. Property owned and operated, or controlled, by a private person is not eligible for exemption under Iowa Code subsection 427.1(21).

80.4(6) The income of persons living in housing eligible for exemption under Iowa Code subsection 427.1(21) shall not be considered in determining the property’s taxable status.

80.4(7) An organization seeking an exemption under Iowa Code subsection 427.1(21) shall file a statement with the local assessor pursuant to Iowa Code subsection 427.1(14).

80.4(8) The exemption authorized by Iowa Code subsection 427.1(21) extends only until the final payment due date of the borrower’s original low-rent housing development mortgage on the property or

until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever is sooner. If the original mortgage is refinanced, the exemption shall apply only until what would have been the final payment due date under the original mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner. This exemption for refinanced projects applies to those projects refinanced on or after January 1, 2005.

80.4(9) In complying with the requirements of Iowa Code subsection 427.1(14), the provisions of rule 701—78.4(427) shall apply.

80.4(10) In determining the taxable status of property for which an exemption is claimed under Iowa Code subsection 427.1(21), the appropriate assessor shall follow rules 701—78.1(427,441) to 701—78.5(427).

80.4(11) If a portion of a structure is used to provide low-rent housing units to elderly persons and persons with disabilities and the other portion is used to provide housing to persons who are not elderly or disabled, the exemption for the property on which the structure is located shall be limited to that portion of the structure used to provide housing to the elderly and disabled. Vacant units and projects under construction that are designated for use to provide housing to elderly and disabled persons shall be considered as being used to provide housing to elderly and disabled persons. The valuation exempted shall bear the same relationship to the total value of the property as the area of the structure used to provide low-rent housing for the elderly and persons with disabilities bears to the total area of the structure unless a better method for determining the exempt valuation is available. The valuation of the land shall be exempted in the same proportion.

80.4(12) The property tax exemption provided in Iowa Code subsection 427.1(21) shall be based upon occupancy by elderly or persons with disabilities as of July 1 of the assessment year. However, nothing in this subrule shall prevent the taxation of such property in accordance with the provisions of Iowa Code section 427.19.

This rule is intended to implement Iowa Code section 427.1(14) and Supplement section 427.1(21).
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.5(427) Speculative shell buildings.

80.5(1) *Authority of city council and board of supervisors.* A city council or county board of supervisors may enact an ordinance granting property tax exemptions for value added as a result of new construction of speculative shell buildings or additions to existing buildings or structures, or may exempt the value of an existing building or structure being reconstructed or renovated and the value of the land on which the building or structure is located, if the reconstruction or renovation constitutes complete replacement or refitting of an existing building or structure owned by community development organizations, not-for-profit cooperative associations under Iowa Code chapter 499A, or for-profit entities. See Iowa Code Supplement section 427.1(27) as amended by 2008 Iowa Acts, Senate File 2419, for definitions. The value added exemption for new construction includes reconstruction and renovation constituting complete replacement or refitting of existing buildings and structures if the reconstruction or renovation is required due to economic obsolescence, or to implement industry standards in order to competitively manufacture or process products, or to market a building or structure as a speculative shell building. The exemption for reconstruction or renovation not constituting new construction does not have to meet these requirements but has to meet only the requirements set forth in the definition of a speculative shell building. The council or board in the ordinance authorizing the exemption shall specify if the exemption will be allowed to community development organizations, not-for-profit cooperative associations under Iowa Code chapter 499B, or for-profit entities, and the length of time the exemption is to be allowed.

80.5(2) *Eligibility for exemption.* The value added by new construction, reconstruction, or renovation and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a tax exemption becomes effective is not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect on February 1 of that calendar year. This subrule does not apply to new construction projects having received prior approval. For reconstruction and renovation projects not

constituting new construction, the ordinance authorizing the exemption must be in effect by February 1 of the year the project commences for the exemption to be allowable in the subsequent assessment year.

80.5(3) *Application for exemption.*

a. A community development organization, not-for-profit cooperative association, or for-profit entity must file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year in which the value added for new construction is first assessed for the exemption to be allowable for that assessment year. For reconstruction and renovation projects not constituting new construction, an application for exemption must be filed by February 1 of the assessment year in which the project commences for the exemption to be allowable the following assessment year. If approved, no application for exemption is required to be filed in subsequent years for the value added exemption or the reconstruction or renovation exemption not constituting new construction. An application cannot be filed if a valid ordinance has not been enacted. If an application is not filed by February 1 of the year in which the value added for new construction is first assessed, the organization, association, or entity cannot receive, in subsequent years, the exemption for that value added. However, if the organization, association, or entity has received prior approval, the application must be filed by February 1 of the year in which the total value added for the new construction is first assessed.

b. If February 1 falls on either a Saturday or Sunday, applications for exemption may be filed the following Monday.

c. Applications submitted by mail must be accepted if postmarked on or before February 1 or, if February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday is acceptable.

80.5(4) *Prior approval.* To obtain prior approval for a project, the proposal of the organization, association, or entity must be approved by a specific ordinance addressing the proposal and passed by the city council or board of supervisors. The original ordinance providing for the exemption does not constitute the granting of prior approval for a project. If an organization, association, or entity has obtained a prior approval ordinance from a city council or board of supervisors, the exemption for new construction cannot be obtained until the year in which all value added for the completed project is first assessed. Reconstruction and renovation projects constituting new construction must receive prior approval to qualify for exemption. Reconstruction and renovation projects that do not constitute new construction need not receive prior approval.

80.5(5) *Termination of exemption.* The exemption continues until the property is leased or sold, the time period for the exemption specified in the ordinance elapses, or the exemption is terminated by ordinance of the city council or board of supervisors. If the ordinance authorizing the exemption is repealed, all existing exemptions continue until their expiration and any projects having received prior approval for exemption for new construction are to be granted an exemption upon completion of the project. If the shell building or any portion of the shell building is leased or sold, the exemption for new construction shall not be allowed on that portion of the shell building leased or sold in subsequent years. If the shell building or any portion of the shell building is leased or sold, the exemption for reconstruction or renovation not constituting new construction shall not be allowed on that portion of the shell building leased or sold and a proportionate share of the land on which the shell building is located in subsequent years.

This rule is intended to implement Iowa Code Supplement section 427.1(27) as amended by 2008 Iowa Acts, Senate File 2419.

701—80.6(427B) Industrial property tax exemption.

80.6(1) *Authority of city council and board of supervisors.* A partial exemption ordinance enacted pursuant to Iowa Code section 427B.1 shall be available to all qualifying property. A city council or county board of supervisors does not have the authority to enact an ordinance granting a partial exemption to only certain qualifying properties (1980 O.A.G. 639). As used in this rule, the term “qualifying property” means property classified and assessed as real estate pursuant to subrule 701—71.1(6), warehouses and distribution centers, research service facilities, and owner-operated cattle facilities. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Iowa Code sections 554.7101 to 554.7603, except that it does not mean a building

or structure used primarily to store raw agricultural products or from which goods are sold at retail. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods. A “research service facility” is one or more buildings devoted primarily to research and development activities or corporate research services. Research and development activities include, but are not limited to, the design and production or manufacture of prototype products for experimental use. A research service facility does not have as its primary purpose the providing of on-site services to the public. “Owner-operated cattle facility” means a building or structure used primarily in the raising of cattle and which is operated by the person owning the facility.

80.6(2) *Prior approval.* Only upon enactment of a partial property tax exemption ordinance in accordance with Iowa Code section 427B.1 may a city council or board of supervisors enact a prior approval ordinance for pending individual projects in accordance with Iowa Code section 427B.4. To obtain prior approval for a project, a property owner’s proposal must be approved by a specific ordinance addressing the proposal and passed by the city council or board of supervisors. The original ordinance providing for the partial exemption does not constitute the granting of prior approval for a project. Also, prior approval for a project can only be granted by ordinance of the city council or board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project. If a taxpayer has obtained a prior approval ordinance from a city council or board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. (1980 O.A.G. 639)

80.6(3) *Repeal of ordinance.* A new construction project having received prior approval for exemption in accordance with subrule 80.6(2) shall be granted such exemption upon completion of the project even if the city council or board of supervisors subsequently repeals the ordinance passed in accordance with Iowa Code section 427B.1. (1980 O.A.G. 639)

80.6(4) *Annexation of property previously granted exemption.* A partial property tax exemption which has been granted and is in existence shall not be discontinued or disallowed in the event that the property upon which such exemption has been previously granted is located in an area which is subsequently annexed by a city or becomes subject to the jurisdiction of a county in which an ordinance has not been passed by the city council or county board of supervisors allowing such exemptions within that jurisdiction. The existing exemption shall continue until its expiration.

80.6(5) *Eligibility for exemption.*

a. The value added by new construction or reconstruction and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a partial property tax exemption becomes effective, and new machinery and equipment assessed as real estate acquired and utilized prior to January 1 of the calendar year in which the ordinance or resolution becomes effective, are not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect prior to February 1 of that calendar year and if all other eligibility and application requirements are satisfied.

EXAMPLE 1: A \$1,000,000 new construction project on qualifying property is begun in July 1984. \$500,000 in value of the partially completed project is completed in 1984 and first assessed as of January 1, 1985. The project is completed in 1985 adding an additional value of \$500,000 which is first assessed as of January 1, 1986, bringing the total assessed value of the completed project to \$1,000,000 as of the January 1, 1986, assessment.

A city ordinance authorizing the partial exemption program is passed and becomes effective January 15, 1987. This project is not eligible for a property tax exemption for any value added as a result of the new construction project.

EXAMPLE 2: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on January 15, 1986, the \$500,000 in assessed value added as of the January 1, 1986, assessment is eligible for the partial exemption if an application is filed with the assessor between January 1 and February 1, 1986, inclusive.

EXAMPLE 3: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on February 15, 1986. Since the statutory application filing deadline is February 1, no value added and first assessed as of January 1, 1986, is eligible for a partial exemption. The project in this example would receive no exemption for any value added as a result of the new construction.

This subrule does not apply to new construction projects having received prior approval in accordance with subrule 80.6(2).

b. New machinery and equipment assessed as real estate shall be eligible for partial exemption only if used primarily in the manufacturing process. For example, computer equipment used primarily to maintain payroll records would not be eligible for exemption, whereas computer equipment utilized primarily to control or monitor actual product assembly would be eligible.

c. If any other property tax exemption is granted for the same assessment year for all or any of the property which has been granted a partial exemption, the partial property tax exemption shall be disallowed for the year in which the other exemption is actually received.

d. Only qualifying property is eligible to receive the partial property tax exemption (O.A.G. 81-2-18).

e. A taxpayer cannot receive the partial property tax exemption for industrial machinery or equipment if the machinery or equipment was previously assessed in the state of Iowa. Industrial machinery and equipment previously used in another state may qualify for the partial exemption if all criteria for receiving the partial exemption are satisfied.

f. Industrial machinery and equipment is eligible to receive the partial property tax exemption if it changes the existing operational status other than by merely maintaining or expanding the existing operational status. This rule applies whether the machinery and equipment is placed in a new building, an existing building, or a reconstructed building. If new machinery is used to produce an existing product more efficiently or to produce merely a more advanced version of the existing product, the existing operational status would only be maintained or expanded and the machinery would not be eligible for the exemption. However, if the new machinery produces a product distinctly different from that currently produced, the existing operational status has been changed.

80.6(6) *Application for exemption.*

a. An eligible property owner shall file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year for which the value added is first assessed for tax purposes. The amount of “actual value added” shall be the difference between the assessed value of the property on January 1 of the year value is added to the property and the assessed value of the property the following assessment year. An application cannot be filed if a valid ordinance has not been enacted in accordance with Iowa Code section 427B.1 (O.A.G. 82-3-5). If an application is not filed by February 1 of the year for which the value added is first assessed, the taxpayer cannot receive in subsequent years the partial exemption for that value added (O.A.G. 82-1-17). However, if a taxpayer has received prior approval in accordance with Iowa Code section 427B.4 and subrule 80.6(2), the application is to be filed by not later than February 1 of the year for which the total value added is first assessed as the approved completed project.

b. In the event that February 1 falls on either a Saturday or Sunday, applications for the industrial property tax exemption may be filed the following Monday.

c. Applications submitted by mail shall be accepted if postmarked on or before February 1, or in the event that February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday shall be accepted.

80.6(7) *Change in use of property.* If property ceases to be used as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which the change in use takes place or for subsequent years. If property under construction ceases to be constructed for use as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which this cessation occurs. However, such a change in the use of the property

does not affect the validity of any partial exemption received for the property while it was used or under construction as qualifying property.

This rule is intended to implement Iowa Code sections 427B.1 to 427B.7.
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.7(427B) Assessment of computers and industrial machinery and equipment.

80.7(1) Computers and industrial machinery and equipment are to be assessed at 30 percent of the property's net acquisition cost through the 1998 assessment year, 22 percent of the net acquisition cost in the 1999 assessment year, 14 percent of the net acquisition cost in the 2000 assessment year, and 6 percent of the net acquisition cost in the 2001 assessment year. The property will be exempt from tax beginning with the 2002 assessment year.

Computers and industrial machinery and equipment acquired after December 31, 1993, and not previously assessed in Iowa, are exempt from tax.

Computers and industrial machinery and equipment assessed pursuant to Iowa Code section 427B.17 are not eligible to receive the partial property tax exemption under Iowa Code sections 427B.1 to 427B.7.

80.7(2) Computers assessed under Iowa Code section 427A.1(1)“j” are limited to the percent of the computer's net acquisition cost as provided in Iowa Code section 427B.17 regardless of the classification of the real estate in which the computer is located.

80.7(3) For computers and industrial machinery and equipment, the net acquisition cost shall be the acquired cost of the property.

80.7(4) Computation of taxpayer's value. Assume a machine is acquired at a net acquisition cost of \$10,000. Assume also that the actual depreciated value of the machine is \$9,000. The value on which taxes would be levied would be limited to \$3,000 ($\$10,000 \times .30$). This percent will change over the course of the phaseout of the tax.

80.7(5) If all or a portion of the value of property assessed pursuant to Iowa Code section 427B.17 is eligible to receive an exemption from taxation, the amount of value to be exempt shall be subtracted from the net acquisition cost of the property before the taxpayer's value prescribed in Iowa Code section 427B.17 is determined. For example, if property has a net acquisition cost of \$30,000 and is eligible to receive a pollution exemption for \$15,000 of value, the taxable net acquisition cost would be \$15,000 and the taxpayer's value would be \$4,500 ($\$15,000 \times .30$). This percent will change over the course of the phaseout of the tax.

80.7(6) In the event the actual depreciated fair market value of property assessed pursuant to Iowa Code section 427B.17 is less than the valuation determined as a percent of the net acquisition cost of the property as provided in Iowa Code section 427B.17, the taxpayer's assessed value would be equal to the actual depreciated fair market value of the property.

80.7(7) Property ineligible for phaseout and exemption. Computers and industrial machinery and equipment, the taxes on which are used to fund a new jobs training project approved on or before June 30, 1995, do not qualify for the exemption provided in Iowa Code section 427B.17(2) nor the phaseout contained in Iowa Code section 427B.17(3) until the assessment year following the calendar year in which the funding obligations have been retired, refinanced, or refunded. At that time, the property will be subject to phaseout if acquired prior to January 1, 1994, or exempt from tax if acquired after December 31, 1993, and not previously assessed in Iowa. See subrule 80.7(1). The community college must notify the assessor by February 15 of each assessment year if the community college will be using a taxpayer's machinery and equipment taxes to finance a project that year. In any year in which the community college does rely on a taxpayer's machinery and equipment taxes for funding, the phaseout and exemption will not apply to that taxpayer that year.

80.7(8) County replacement.

a. For fiscal years beginning July 1, 1996, and ending June 30, 2001, the county replacement amount shall be equal to the difference between the assessed value of computers and industrial machinery and equipment as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, multiplied by the tax levy rate for that fiscal year. If there is an increase in valuation (the January 1, 1994, value is less), there will be no replacement for that fiscal year.

b. For fiscal years beginning July 1, 2001, and ending June 30, 2004, the county replacement amount shall be equal to the difference between the assessed value of computers and industrial machinery and equipment as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, less, if any, the increase in the assessed value of commercial and industrial property as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, multiplied by the tax levy rate for that fiscal year. If the calculation results in a negative amount, there will be no replacement for that fiscal year.

c. The replacement amounts shall be determined for each taxing district and a replacement claim summarizing the total amounts for the county prepared and submitted by the county auditor to the department of revenue by September 1 of each year. The department shall pay the replacement amount to the county treasurer in September and March of each year.

d. No replacement is allowable if a community college elects not to fund a new jobs training project with a tax on computers and industrial machinery and equipment.

This rule is intended to implement Iowa Code chapter 427B as amended by 2003 Iowa Acts, Senate File 453.

701—80.8(404) Urban revitalization partial exemption.

80.8(1) *Area designated.* An area containing only one building or structure cannot be designated as an urban revitalization area (1980 O.A.G. 786).

80.8(2) *Prior approval.* To obtain prior approval for a project, a property owner's proposal must be approved by a specific resolution addressing the proposal and passed by the city council or county board of supervisors. The original ordinance providing for the urban revitalization area does not constitute the granting of prior approval for any particular project. Also, prior approval for a project can only be granted by resolution of the city council or county board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project.

80.8(3) *Eligibility for exemption.* Improvements made as a result of a project begun more than one year prior to a city's or county's adoption of an urban revitalization ordinance are not eligible to receive the partial exemption even though some of the improvements are added during the time the area was designated as an urban revitalization area. For a project commenced within one year prior to the adoption of an urban revitalization ordinance, the partial exemption can be allowed only for those improvements constructed on or after the effective date of the ordinance. (1982 O.A.G. 358)

80.8(4) *Minimum value added.* Once the minimum value added required by Iowa Code section 404.3(7) has been assessed, any amount of additional value added to the property in subsequent years is eligible for the partial exemption. The value added subject to partial exemption for the first year for which an exemption is claimed and allowed shall include value added to the property for a previous year even if the value added in the previous year was not by itself sufficient to qualify for the partial exemption.

For example, assume that an urban revitalization project is begun on commercial property having an actual value of \$50,000 as of January 1, 1984. As a result of improvements made during 1984, the actual value of the property as of January 1, 1985, is determined to be \$55,000. Additional improvements made during 1985 increase the actual value of the property to \$70,000 for the 1986 assessment. In this example, no partial exemption can be allowed for 1985 since the value added for that year is less than 15 percent of the actual value of the property prior to construction of the improvements. A partial exemption can be allowed for 1986 and subsequent years for the \$20,000 value added in both 1985 and 1986, providing a valid application for the partial exemption is filed between January 1, 1986, and February 1, 1986, inclusive.

80.8(5) *Application for partial exemption.*

a. *Prior approval.* If a taxpayer has secured a prior approval resolution from the city council or the county board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. A partial exemption can be allowed only if an application is filed between January 1 and February 1, inclusive, of the year in which all value added for the project is first assessed. If an application is not filed during that period, no partial exemption can be allowed for that

year or any subsequent year. The submission to the city council or the county board of supervisors of a proposal to receive prior approval does not by itself constitute an application for the partial exemption.

For example, assume a city council or county board of supervisors approves a prior approval resolution in April 1984 for a revitalization project to be completed in September 1986. Assuming all construction on the project is completed in 1986, no partial exemption can be allowed until 1987 since that would be the year in which all value added for the project is first assessed. To receive the partial exemption, a valid application would have to be filed between January 1, 1987, and February 1, 1987, inclusive.

b. No prior approval. If a project has not received a prior approval resolution, a taxpayer has the option of receiving the partial exemption beginning with any year in which value is added to the property or waiting until all value added to the property is first assessed in its entirety. To secure a partial exemption prior to the completion of the project, an application must be filed between January 1 and February 1, inclusive, in each year for which the exemption is claimed.

For example, assume a revitalization project is begun in June 1984 and completed in September 1985, that no prior approval resolution for the project has been approved, and that a ten-year exemption period has been selected. Assume further that as a result of construction on the project, value is added for the assessment years 1985 and 1986. If an application is filed between January 1, 1985, and February 1, 1985, inclusive, a partial exemption could be allowed for the value added for 1985 beginning with the 1985 assessment and ending with the 1994 assessment. If an application is filed between January 1, 1986, and February 1, 1986, inclusive, a partial exemption could be allowed for the value added for 1986 beginning with the 1986 assessment and ending with the 1995 assessment. The partial exemption allowable for the years 1986 through 1995 would be against the value added for 1986 as a result of improvements made during calendar year 1985.

In the example above, the taxpayer may elect not to file an application for the partial exemption in 1985. In this situation, if an application is filed between January 1, 1986, and February 1, 1986, inclusive, a partial exemption could be allowed for the total value added for 1985 and 1986 and would apply to assessments for the years 1986 through 1995.

c. Filing deadline. If February 1 falls on a Saturday or Sunday, an application for the partial exemption may be filed the following Monday. Applications submitted by mail must be postmarked on or before February 1, or on or before the following Monday if February 1 falls on a Saturday or Sunday.

d. Extended filing deadline. The exemption is allowable for the total number of years in the exemption schedule if a claim for exemption is filed within two years of the original February 1 filing deadline. The city council or county board of supervisors may by resolution provide that an application for the partial exemption can be filed by February 1 of any assessment year the area is designated as an urban revitalization area. The exemption shall be allowed for the same number of years remaining in the exemption schedule selected as would have been remaining had the claim for exemption been timely filed.

80.8(6) Value exempt. The partial exemption allowed for a year in which an application is filed shall apply to the value added and first assessed for that year and any value added to the project and assessed for a preceding year or years and for which a partial exemption had not been received.

80.8(7) Minimum assessment. The partial exemption shall apply only to the value added in excess of the actual value of the property as of the year immediately preceding the year in which value added was first assessed. If the actual value of the property is reduced for any year during the period in which the partial exemption applies, any reduction in value resulting from the partial exemption shall not reduce the assessment of the property below its actual value as of January 1 of the assessment year immediately preceding the year in which value added was first assessed. This subrule applies regardless of whether the reduction in actual value is made by the assessor, the board of review, a court order, or an equalization order of the director of revenue.

80.8(8) Value added. As used in this rule, the term “value added” means the amount of increase in the actual value of real estate directly attributable to improvements made as part of a revitalization project. The amount of “actual value added” shall be the difference between the assessed value of the property on

January 1 of the year value is added to the property and the assessed value of the property the following assessment year. "Value added" does not include any increase in actual (market) value attributable to that portion of the real estate assessed prior to the year in which revitalization improvements are first assessed. The sales price of the property rather than the assessed value of the property may be used in determining the percentage increase required to qualify for exemption if the improvements were begun within one year of the date the property was purchased.

80.8(9) *Repeal of ordinance.* An urban revitalization project which has received proper prior approval shall be eligible to receive the partial exemption following completion of the project even if the city council or county board of supervisors subsequently repeals the urban revitalization ordinance before improvements in the project are first assessed (1980 O.A.G. 639).

This rule is intended to implement Iowa Code chapter 404 as amended by 2002 Iowa Acts, House File 2622.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.9(427C,441) Forest and fruit-tree reservations.

80.9(1) *Determination of eligibility for exemption.* Property for which an application for exemption as a forest or fruit-tree reservation has been filed shall be inspected by the assessor or county conservation board. The county board of supervisors designates whether all inspections in the county are to be made by the assessor, including any city assessor, or by the county conservation board. When appropriate, aerial photographs may be used in place of an on-site inspection of the property. The assessment or exemption of the property is to be based upon criteria established by the state conservation commission and findings obtained by the inspection of the property or the examination of aerial photographs of the property.

80.9(2) *Application for exemption.*

a. An application for exemption must be filed with the appropriate assessor between January 1 and February 1, inclusive, of the assessment year for which the exemption is first claimed. If the inspection of the property is to be made by the county conservation board, the assessor shall forward the application to the board for its recommendation. Once the application has been accepted, the exemption is applicable to the current and subsequent assessment years and no further application shall be required so long as the property remains eligible for the exemption.

b. If February 1 falls on a Saturday or Sunday, an application for exemption may be filed the following Monday.

c. An application shall be considered to be timely filed if postmarked on or before February 1 or the following Monday if February 1 falls on a Saturday or Sunday.

80.9(3) *Notification to property owner.* If the property is to be inspected by the county conservation board, the board shall make every effort to submit its recommendation to the assessor in sufficient time for the assessor to notify the claimant by April 15. The assessor shall notify the claimant by April 15 of the disposition of the application for exemption. If because of the date on which an application is filed a determination of eligibility for the exemption cannot be made in sufficient time for notification to be made by April 15, the assessor shall assess the property and notify the property owner of the inability to act on the application. The notification shall contain the actual value and classification of the property and a statement of the claimant's right of appeal to the local board of review.

80.9(4) *Appeal of eligibility determination.* If a property for which a claim for exemption as a forest or fruit-tree reservation is assessed for taxation, the property owner may appeal the assessment to the board of review under Iowa Code section 441.37.

80.9(5) *Valuation of property.* For each assessment year for which property is exempt as a forest or fruit-tree reservation, the assessor shall determine the actual value and classification that would apply to the property were it assessed for taxation that year. In any year for which the actual value or classification of property so determined is changed, the assessor shall notify the property owner pursuant to Iowa Code sections 441.23, 441.26 and 441.28.

80.9(6) Recapture tax.

a. Assessment of property. If the county conservation board or the assessor determines a property has ceased to meet the eligibility criteria established by the state conservation commission, the property shall be assessed for taxation and subject to the recapture tax. The property shall be subject to taxes levied against the assessment made as of January 1 of the calendar year in which the property ceased to qualify for exemption. In addition, the property shall be subject to the tax which would have been levied against the assessment made as of January 1 of each of the five preceding calendar years for which the property received an exemption.

b. Assessment procedure. If the determination that a property has ceased to be eligible for exemption is made by the assessor by April 15, the assessor shall notify the property owner of the assessment as of January 1 of the year in which the determination is made in accordance with Iowa Code sections 441.23, 441.26, and 441.28. The assessment of the property for any of the five preceding years and for the current year, if timely notice by April 15 cannot be given, shall be by means of an omitted assessment as provided in Iowa Code section 443.6 (*Talley v. Brown*, 146 Iowa 360, 125 N.W. 243(1910)). Appeal of the omitted assessment may be taken pursuant to Iowa Code sections 443.7 and 443.8.

c. Computation of tax. The county auditor shall compute the tax liability for each year for which an assessment has been made pursuant to subrule 80.9(6), paragraph “b.” The tax liability shall be the amount of tax that would have been levied against each year’s assessment had the property not received the exemption. In computing the tax, the valuations established by the assessor shall be adjusted to reflect any equalization order or assessment limitation percentage applicable to each year’s assessment.

d. Entry on tax list. The tax liability levied against assessments made as of January 1 of any year preceding the calendar year in which the property ceased to qualify for exemption shall be entered on the tax list for taxes levied against all assessments made as of January 1 of the year immediately preceding the calendar year in which the property ceased to qualify for exemption. However, if those taxes have already been certified to the county treasurer, the recapture taxes shall be entered on the tax list for taxes levied against assessments made as of January 1 of the year in which the property ceased to qualify for exemption. The tax against the assessment made as of January 1 of the year in which the property ceased to qualify for exemption shall be levied at the time taxes are levied against all assessments made as of that date.

e. Delinquencies. Recapture taxes shall not become delinquent until the time when all other unpaid taxes entered on the same tax list become delinquent.

f. Exceptions to recapture tax.

(1) Fruit-tree or forest reservations. Property which has received an exemption as a fruit-tree or forest reservation is not subject to the recapture tax if the property is maintained as a fruit-tree or forest reservation for at least five full calendar years following the last calendar year for which the property was exempt as a fruit-tree or forest reservation.

(2) Property which has been owned by the same person or the person’s direct descendants or antecedents for at least ten years prior to the time the property ceases to qualify for exemption shall not be subject to the recapture tax.

(3) Property described in subparagraphs 80.9(6)“f”(1) and 80.9(6)“f”(2) is subject to assessment as of January 1 of the calendar year in which the property ceases to qualify for exemption.

This rule is intended to implement Iowa Code chapter 427C as amended by 2001 Iowa Acts, House File 736, and Iowa Code section 441.22.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.10(427B) Underground storage tanks.

80.10(1) Authority of city councils and county boards of supervisors. A city council or county board of supervisors may provide by ordinance to grant property tax credits to small business owners for payment of underground storage tank cleanup costs. The ordinance is to designate the period of time over which the credit is to be granted (not to exceed ten years) and the percentage of credit to be granted each

year. If the ordinance is repealed, existing credits are to continue through their designated expiration date. A small business means a business with gross receipts of less than \$500,000 per year.

80.10(2) *Application for credit.* The small business owner is required to file an application for credit with the respective city council or county board of supervisors by September 30 of the year following the calendar year in which cleanup costs were paid and each succeeding year the credit is applicable. The application for credit shall be prescribed by the director of revenue and shall contain, but not be limited to, the small business owner's cleanup costs and gross receipts for the most recent tax year.

80.10(3) *Allowance of credit.* Credits granted by a county board of supervisors are applicable only to property located outside the corporate limits of a city and credits granted by a city council are only applicable to property located within the corporate limits of the city. The amount of the credit granted cannot exceed the small business owner's cleanup costs nor the amount of city or county taxes paid on the property where the underground storage tank is located for any fiscal year the credit is applicable. Upon approval of the application for credit, the city council or county board of supervisors shall direct its city clerk or county treasurer to reimburse the small business owner in the amount of the designated credit.

This rule is intended to implement Iowa Code sections 427B.20 to 427B.22.

701—80.11(425A) Family farm tax credit.

80.11(1) *Eligibility for credit.* Generally, the family farm tax credit is only intended to benefit tracts of agricultural land that are owned by certain individuals or enumerated legal entities if the owner or other specified persons are actively engaged in farming.

a. In order for a tract of land to qualify for the family farm tax credit, the following three criteria must be satisfied:

(1) The tract of land must be an "eligible tract of agricultural land" as defined in Iowa Code subsection 425A.2(5). This means the tract must be ten acres or more or contiguous to a tract of more than ten acres and used in good faith for agricultural or horticultural purposes. More than half of the acres in the tract must be devoted to the production of crops or livestock by a designated person. Contiguous tracts under the same legal ownership and located within the same county are considered one tract. Only tracts of land that are classified as agricultural real estate qualify for the credit.

(2) The tract of land must be owned by:

1. An individual or persons related or formerly related to each other, or
2. A partnership where all the partners are related or formerly related to each other, or
3. A family farm corporation as defined in Iowa Code subsection 9H.1(8), or
4. An authorized farm corporation as defined in Iowa Code subsection 9H.1(3).

The ownership criteria must be met on June 30 of the fiscal year prior to the fiscal year in which the application for credit is filed. For example, the ownership criteria must be met on June 30, 1990, for applications for credit filed in 1990.

(3) A designated person must be "actively engaged in farming" the tract during the fiscal year prior to the fiscal year in which the application for credit is filed. If the tract is owned by an individual or related persons, the designated person who is actively engaged in farming must be an owner of the tract, the owner's spouse, or the owner's relative within the third degree of consanguinity or their spouses. This includes the owner's child, stepchild, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, or nephew or their spouses. The only step relative that may qualify as a designated person is a stepchild. If the owner of the tract is a partnership, the designated person who is actively engaged in farming must be a partner or a partner's spouse. If the owner of the tract of land is a family farm corporation, the designated person who is actively engaged in farming must be a family member who is a shareholder of the family farm corporation or the shareholder's spouse. If the owner of the tract of land is an authorized farm corporation, the designated person who is actively engaged in farming must be the shareholder who owns at least 51 percent of the stock of the authorized farm corporation or that shareholder's spouse.

If the owner is an individual who leases the land to a family farm corporation or partnership, a shareholder of the corporation or a partner of the partnership shall be considered a designated person if

the combined stock of the family farm corporation or the combined partnership interest owned by the owner, the owner's spouse and persons related to the owner within the third degree of consanguinity and their spouses is equal to at least 51 percent of the stock of the family farm corporation or the ownership interest in the partnership.

b. In order to be "actively engaged in farming" the designated person must be personally involved in the production of crops or livestock on the "eligible tract" on a regular, continuous and substantial basis. Personal involvement in the production of crops or livestock includes not only field activities such as soil preparation and testing, planting, fertilizing, spraying, inspecting, cultivating and harvesting but also managerial decision-making activities relating to hybrid selection, crop rotation planning, crop selection, equipment purchases and marketing strategies. Personal involvement in the production of crops or livestock also includes activities pertaining to crop insurance selection, loan selection, and financial record maintenance and preparation. A person performing activities in the capacity of a lessor, whether under a cash or crop-share lease and whether under a written or oral lease, is not actively engaged in farming on the area of the tract covered by the lease.

c. Tracts subject to a federal program pertaining to agricultural land. In lieu of satisfying the "actively engaged in farming" test, a designated person may demonstrate that the person was in general control of the tract which was subject to a federal program pertaining to agricultural land during the prior fiscal year. This alternative test is intended to apply in circumstances where the active farming criteria cannot be met because the land is in the Conservation Reserve Program (commonly referred to as the CRP) or a program substantially similar to the 0/92 option where the tract has been taken out of production.

d. The following examples illustrate family farm tax credit eligibility under various circumstances:

EXAMPLE 1. A and B jointly own land and were both personally involved in the farming operation. They are not related. No credit is allowable because it is a requirement that individual owners be related. If A and B were brothers, the land would qualify for the credit.

EXAMPLE 2. A owns the land and is retired. A leased the land to B, his son. B was personally involved in the farming operation. The land is eligible for the credit even though a lease arrangement existed because the actively engaged in farming requirement can be satisfied through the activities of the owner's spouse, or the owner's relative within the third degree of consanguinity or the relative's spouse. See paragraph "a," subparagraph (3), of this subrule. No credit would be allowable if A and B were not related.

EXAMPLE 3. A owns two contiguous 40-acre tracts. A farmed all of one tract but only 15 acres of the other tract. The other 25 acres of the second tract were leased to a nondesignated person. Both tracts qualify for the credit because contiguous tracts under the same legal ownership are considered one tract and more than half of the total of 80 acres ($40 + 15 = 55$) were farmed by A.

EXAMPLE 4. The land is owned by a partnership in which the partners A, B, C and D are brothers. A and B farm the land but C and D have no involvement in the farming operation. The land is eligible for the credit because it makes no difference what level of involvement each partner had nor does it matter that one or more of the partners were not personally involved in the farming operation. The only requirement for qualifying for the credit is that at least one of the partners or one of the partners' spouses was personally involved in the farming operation. No credit would be allowable if all the partners were not related to each other.

EXAMPLE 5. The land is owned by a family farm corporation in which the stock is owned equally by A, B and C. A and B are brothers but not related to C. All three partners were personally involved in the farming operation. The land qualifies for the credit because it is only a requirement that a family member who is a shareholder in the family farm corporation be involved in the farming operation. The land would qualify for the credit even if B was not involved in the farming operation. However, no credit would be allowable if only C was involved in the farming operation.

EXAMPLE 6. The land is owned by an authorized farm corporation in which 60 percent of the stock is owned by A and 40 percent of the stock is owned by B. Both A and B were personally involved in the farming operation. The credit is allowable as long as the stockholder who owns at least 51 percent of

the stock was personally involved in the farming operation. No credit would be allowable if A was not personally involved in the farming operation.

80.11(2) *Application for credit.* To obtain the credit, the owner must file an application for credit with the assessor by November 1. If the claim for credit is approved, no further filing shall be required provided the ownership and the designated person actively engaged in farming the property remain the same during successive years. A new application for credit shall be required only if the property is sold or the designated person changes. The county board of supervisors shall review all claims and make a determination as to eligibility. The claimant may appeal a decision of the board to district court by giving written notice to the board within 20 days of the board's notice.

80.11(3) *Application of credit.* The county auditor shall certify to the department of revenue by April 1 the total amount of family farm tax credits due the county. The county auditor shall apply the credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of \$5.40 multiplied by the taxable value of the eligible tract.

80.11(4) *Penalty.* The owner shall provide written notice to the assessor if the designated person changes. Failure to do so shall result in the owner's being liable for the amount of the credit plus a penalty equal to 5 percent of the amount of the credit granted.

This rule is intended to implement Iowa Code chapter 425A as amended by 2001 Iowa Acts, House Files 712 and 713.

701—80.12(427) Methane gas conversion property.

80.12(1) *Application for exemption.* An application for exemption is required to be filed with the appropriate assessing authority by February 1 of each year. The assessed value of the property is to be prorated to reflect the appropriate amount of exemption if the property used to convert the methane gas to energy also uses another fuel. The first year exemption shall be equal to the estimated ratio that the methane gas consumed bears to the total fuel consumed times the assessed value of the property. The exemption for subsequent years shall be based on the actual ratio for the previous year.

80.12(2) *Eligibility for exemption.* To qualify for exemption, the property must be used either in an operation that decomposes waste and converts it to methane gas or other gases produced as a byproduct of waste decomposition, then collects the gases and converts them to energy; or in an operation that collects waste in order to decompose it to produce methane gas or other gases for conversion into energy. The exemption applies to both property used in connection with, or in conjunction with, a publicly owned sanitary landfill and to property not used in connection with, or in conjunction with, a publicly owned sanitary landfill.

The exemption for property not used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill is limited to property originally placed in operation on or after January 1, 2008, and on or before December 31, 2012, and will be available for the ten-year period following the date the property was originally placed in operation.

This rule is intended to implement Iowa Code section 427.1(29) as amended by 2009 Iowa Acts, Senate File 478, section 224.

[ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.13(427B,476B) Wind energy conversion property.

80.13(1) *Special valuation allowed by ordinance.* A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property must be valued at market value rather than at 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor must value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property must not be assessed until the assessment

year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

80.13(2) *Special valuation not allowed by ordinance.* If a city council or county board of supervisors has not passed an ordinance providing for the special valuation of wind energy conversion property, the property is to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility must file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department must certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors must notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department. The board must also notify the department of those facilities that are required to pay the property taxes to the department. The department must notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification is authorization for the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and chapter 476B as amended by 2009 Iowa Acts, Senate File 456, sections 2 and 4.

[ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.14(427) Mobile home park storm shelter.

80.14(1) *Application for exemption.* An application for exemption must be filed with the assessing authority by February 1 of the first year the exemption is requested. Applications for exemption are not required in subsequent years if the property remains eligible for exemption.

80.14(2) *Eligibility for exemption.* The structure must be located in a mobile home park as defined in Iowa Code section 435.1.

80.14(3) *Valuation exempted.* If the structure is used exclusively as a storm shelter, it shall be fully exempt from taxation. If the structure is not used exclusively as a storm shelter, the exemption shall be limited to 50 percent of the structure's commercial valuation.

This rule is intended to implement Iowa Code Supplement section 427.1(30).

701—80.15(427) Barn and one-room schoolhouse preservation. The increase in value added to a farm structure constructed prior to 1937 or one-room schoolhouse as a result of improvements made is exempt from tax. An application must be filed with the assessor by February 1 of the first assessment year only and the exemption is to continue as long as the structure continues to be used as a barn or in the case of a one-room schoolhouse is not used for dwelling purposes. A "barn" is an agricultural structure that is used for the storage of farm products or feed or the housing of farm animals, poultry, or farm equipment.

This rule is intended to implement Iowa Code sections 427.1(31) and 427.1(32) as amended by 2000 Iowa Acts, House File 2560.

701—80.16(426) Agricultural land tax credit.

80.16(1) *Eligibility for credit.* The credit shall be allowed on land in tracts of ten acres or more, or land of less than ten acres if part of other land of more than ten acres, and used for agricultural or horticultural purposes.

80.16(2) *Application for credit.* No application for credit is required.

80.16(3) *Application of credit.* The county auditor shall certify to the department of revenue by April 1 the total amount of agricultural land tax credits due the county. The county auditor shall apply the credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of \$5.40 multiplied by the taxable value of the eligible tract.

This rule is intended to implement Iowa Code chapter 426 as amended by 2001 Iowa Acts, House File 713.

701—80.17(427) Indian housing property. Property owned and operated by an Indian housing authority, as defined in 24 CFR 950.102, is exempt from taxation provided the exemption has been

approved by the city council or county board of supervisors, whichever is applicable, and a valid claim for exemption has been filed pursuant to Iowa Code section 427.1(14) by February 1.

This rule is intended to implement Iowa Code section 427.1 as amended by 2001 Iowa Acts, Senate File 449.

701—80.18(427) Property used in value-added agricultural product operations. Fixtures used for cooking, refrigeration, or freezing of value-added agricultural products used in value-added agricultural processing or used in direct support of value-added agricultural processing are exempt from tax. Direct support includes storage by public refrigerated warehouses for processors of value-added agricultural products prior to the start of the value-added agricultural processing operation. The exemption does not apply to fixtures used primarily for retail sale or display. If the taxpayer is a retailer, there is a presumption that the fixtures are being used primarily for retail sale or display. The exemption applies only to fixtures that are attached in a manner set forth in Iowa Code section 427A.1(2).

The following definitions apply to this rule:

“Fixture” means property which was originally personal property but which by being physically attached to the realty becomes part of the realty and upon removal does not destroy the property to which it is attached.

“Value-added agricultural processing” means an operation whereby an agricultural product is subjected to some special treatment by artificial or natural means which changes its form, context, or condition, and results in a marketable agricultural product to be sold at retail. These operations are commonly associated with fabricating, compounding, germinating, or manufacturing.

“Value-added agricultural product” means an agricultural product which, through a series of activities or processes, may be sold at a higher price than its original purchase price.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2001 Iowa Acts, House File 715.

701—80.19(427) Dwelling unit property within certain cities. Dwelling unit property owned and managed by a nonprofit community housing development organization that owns and manages more than 150 dwelling units in a city with a population of more than 110,000 is exempt from tax. The organization must be recognized by the state and the federal government pursuant to criteria contained in the HOME program of the federal National Affordable Housing Act of 1990 and must be exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The exemption does not extend to dwelling units located outside the city. The organization must file an application for exemption with the assessing authority not later than February 1 of the assessment year. Applications for exemption are not required in successive years if the property continues to qualify for the exemption.

This rule is intended to implement Iowa Code Supplement section 427.1(21A) as amended by 2006 Iowa Acts, House File 2792.

701—80.20(427) Nursing facilities. If the assessor determines that property is being used for a charitable purpose pursuant to Iowa Code section 427.1(8), it shall be fully exempt from tax if it is licensed under Iowa Code section 135C.1(13) by the department of inspections and appeals, exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, and a valid application for exemption has been filed with the assessor by February 1 of the assessment year.

This rule is intended to implement Iowa Code Supplement section 427.1(14).

701—80.21(368) Annexation of property by a city. A city council may provide a partial tax exemption from city taxes against annexed property for a period of ten years. The exemption schedule is contained in Iowa Code Supplement section 368.11(3) “m.” All property owners included in the annexed area must receive the exemption if the city elects to allow the exemption.

This rule is intended to implement Iowa Code Supplement section 368.11(3) “m” as amended by 2006 Iowa Acts, House File 2794.

701—80.22(427) Port authority. The property of a port authority created pursuant to Iowa Code Supplement section 28J.2 when devoted to public use and not held for pecuniary profit is exempt from taxation.

This rule is intended to implement Iowa Code Supplement section 427.1(34).

701—80.23(427A) Concrete batch plants and hot mix asphalt facilities. A concrete batch plant includes the machinery, equipment, and fixtures used at a concrete mixing facility to process cement dry additive and other raw materials into concrete. A hot mix asphalt facility is any facility used to manufacture hot mix asphalt by heating and drying aggregate and mixing it with asphalt cements. These facilities shall not be assessed and taxed as real property regardless of the property's attachment to real estate. The land on which the facilities are located is taxable.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, Senate File 2391.

701—80.24(427) Airport property. Property owned by a city or county at an airport and leased to a fixed base operator providing aeronautical services to the public is exempt from taxation.

This rule is intended to implement Iowa Code section 427.1(2) as amended by 2006 Iowa Acts, House File 2794.

701—80.25(427A) Car wash equipment. Property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, House File 2794.

701—80.26(427) Web search portal and data center business property. This exemption includes computers and equipment necessary for the maintenance and operation of a web search portal or data center business, including cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity, including but not limited to exterior dedicated business-owned substations, and power distribution systems which are not subject to assessment under Iowa Code chapter 437A; back-up power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays. The exemption does not apply to land, buildings, and improvements. The web search portal or data center business must meet the requirements contained in Iowa Code section 423.3, subsection 92, subsection 93, or subsection 95, for the exemption to be allowable. The owner of the property must file a claim for exemption with the assessor by February 1 of the first year the exemption is claimed. Claims for exemption in successive years will be required only for property additions.

This rule is intended to implement Iowa Code sections 427.1(35) and 427.1(36) and section 427.1 as amended by 2009 Iowa Acts, Senate File 478, section 200.

[ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.27(427) Privately owned libraries and art galleries. Claims for exemption for libraries and art galleries owned and kept by private individuals, associations, or corporations for public use and not for private profit must be filed with the local assessor by February 1 of the first year the exemption is requested. Once the exemption is granted, the exemption shall continue to be granted for subsequent assessment years without further filing of claims as long as the property continues to be used as a library or art gallery for public use and not for private profit.

This rule is intended to implement Iowa Code Supplement section 427.1(7) as amended by 2008 Iowa Acts, Senate File 2400.

701—80.28(404B) Disaster revitalization area. The governing body of a city or county may, by ordinance, designate an area of the city or county a disaster revitalization area if that area is within a county or portion of a county in which the governor has proclaimed a disaster emergency or the

United States president has declared a major disaster. All real property within a disaster revitalization area is eligible to receive a 100 percent exemption from taxation on the increase in assessed value of the property if the increase in assessed value is attributable to revitalization of the property occurring between May 25, 2008, and December 31, 2013. The amount of increase in value shall be the difference between the assessed value of the property on January 1, 2007, and the assessed value of the property on January 1, 2010, and subsequent assessment years. The exemption is for a period not to exceed five years, starting with an assessment year beginning on or after January 1, 2010. A city or county may adopt a tax exemption percentage different from the 100 percent exemption. The different percentage adopted must not allow a greater exemption, but may allow a smaller exemption. If the homeowner elects to take the exemption provided in this rule, the homeowner may not claim any other value-added exemption. An application must be filed for each revitalization project resulting in increased assessed value for which an exemption is claimed. The application for exemption must be filed by the owner of the property with the local assessor by February 1 of the first assessment year for which the exemption is requested. After the tax exemption is granted, the exemption will continue for succeeding years without the taxpayer's having to file an application for exemption unless additional revitalization projects occur on the property. The ordinance must expire or be repealed no later than December 31, 2016.

This rule is intended to implement 2009 Iowa Acts, Senate File 457, sections 23 to 30.
[ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.29(427) Geothermal heating and cooling systems installed on property classified as residential.

80.29(1) *In general.* An exemption from property tax shall be allowed for any value added to property by any new construction or refitted installation of a geothermal heating or cooling system if the geothermal heating or cooling system is constructed or installed on or after July 1, 2012, on property classified as residential. The exemption shall also be allowed for a residential dwelling on agricultural land. The exemption does not have to be claimed the year subsequent to the year the geothermal system is constructed or installed. However, every individual claiming the exemption under this rule shall file with the appropriate assessor, not later than February 1 of the year for which the exemption is requested, an application for exemption. The assessor shall then allow or disallow the exemption.

Upon the filing and allowance of the claim, the claim shall be allowed on the property for ten consecutive years without further filing as long as the property continues to be classified as residential. However, if the property ceases to be classified as residential or if the geothermal heating and cooling system ceases to exist before the ten years have expired, no exemption is allowed for the year in which the change in classification took place or for any subsequent years. The exemption amount shall remain fixed at the same amount that was allowed in the first year the exemption was allowed.

The property tax exemption applies to any value added by the addition of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses included in or required for the construction or installation of the geothermal system that would not have been included in the home if not for the installation of the geothermal heating and cooling system. Additionally, the proportionate value of any well field associated with the system and attributable to the owner is exempt.

80.29(2) *Calculation of value added.* As used in this rule, the terms “any value added” and “value added” mean the amount of increase in the actual assessed value of the property that is directly attributable to the new construction or refit installation of a geothermal heating or cooling system as of the first year for which the geothermal heating and cooling system is actually assessed. “Any value added” does not include speculative or indirect increases in value which, for example, may be attributable to reductions in energy consumption or reductions in the negative impact to the environment. “Any value added” does not include changes in value which are attributable to general housing market fluctuations. Cost of the new construction or refit installation of the geothermal heating or cooling system is not determinative of the value added to a property. In the event the exemption is not filed in the same year the geothermal heating and cooling system is first assessed, the amount of the exemption, upon filing, shall be the same amount as it would have been had the exemption been filed in the year the geothermal heating and cooling system was first assessed.

In the case of new construction and refit installation of a geothermal heating or cooling system, the value added is the value that would not have been included in the home if not for the construction or refit installation of the geothermal heating and cooling system. That is, the value of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses that would have been included with a standard heating and cooling system shall not be considered in calculating the value added. To measure the value added by a geothermal heating and cooling system, the assessor shall compute the difference between the assessed value of the residential property if the property were outfitted with a non-geothermal (standard) heating and cooling system and the assessed value of the property outfitted with the geothermal system. In the case that the new construction or refit installation takes more than one year, the assessor shall make the comparison in the year the new construction or refit installation is completed.

EXAMPLE A: Mrs. Smith wants to upgrade her current standard heating and cooling system in her home with a geothermal system. The geothermal system installation is completed on August 1, 2012. On January 22, 2013, Mrs. Smith files a claim for exemption for the value added to her property that is directly attributable to the refit installation of the geothermal system. To determine the value added that is directly attributable to the geothermal system, the assessor shall compare the value of the home as though it was outfitted with the standard heating and cooling system which was upgraded with the value of the home outfitted with the geothermal heating and cooling system; the difference between the two values is the exemption amount. That exemption amount will remain fixed for the next ten years, until Mrs. Smith's home ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first. For years subsequent to 2013, any increase in the value of Mrs. Smith's home beyond the assessed value of the home outfitted with the geothermal heating and cooling system is not attributable to the geothermal system and is subject to property tax. The property tax exemption amount for the geothermal heating and cooling system will remain the same as the first year for which the exemption was received even if the assessed value of Mrs. Smith's home drops.

EXAMPLE B: Same facts as Example A, except that on January 1 of year seven, Mrs. Smith's home is reclassified as commercial property. No property tax exemption is allowed for the value added by the geothermal system for year seven or any subsequent years.

EXAMPLE C: Mr. Larson is building a new home and plans to construct a new geothermal system in lieu of a standard heating and cooling system. The home and geothermal system are completed on October 24, 2012. To determine the value added that is directly attributable to the installation of the geothermal system, the assessor shall assess the home as though it had been outfitted with a standard heating and cooling system and compare that value with the assessed value of the home outfitted with the geothermal heating and cooling system. The difference between the two amounts is the value added that is directly attributable to the geothermal system and is the exemption amount. In 2013, the assessed value of Mr. Larson's home with a standard heating and cooling system is \$200,000. The assessed value of Mr. Larson's home with the geothermal system is \$210,000. Therefore, the value added to the property that is directly attributable to the geothermal system is \$10,000. Mr. Larson may claim an exemption amount of \$10,000 starting in assessment year 2013. Mr. Larson does not lose the exemption if he fails to claim the exemption by February 1, 2013; he may claim the exemption in any year subsequent to the completion of the construction of the home. An exemption amount of \$10,000 will continue for ten consecutive years after the exemption is claimed, until the property ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first.

EXAMPLE D: Same facts as Example C, except that Mr. Larson claims the exemption in 2019. The exemption amount in 2019, and the nine subsequent years, is the value added in the year the geothermal heating and cooling system was first assessed; here, \$10,000 in 2013. The value added and exemption amount is not calculated in the year Mr. Larson claims the exemption. The \$10,000 exemption will then continue until 2028, until the property ceases to be classified as residential or until the geothermal system ceases to exist, whichever occurs first.

This rule is intended to implement Iowa Code section 427.1.
[ARC 0467C, IAB 11/28/12, effective 1/2/13]

701—80.30 to 80.49 Reserved.

701—80.50(427,441) Responsibility of local assessors.

80.50(1) The assessor shall determine the taxable status of all property. If an application for exemption is required to be filed, the assessor shall consider the information contained in the application in determining the taxable status of the property. The assessor may also request from any property owner or claimant any additional information necessary to the determination of the taxable status of the property. For property subject to Iowa Code subsection 427.1(14), the assessor shall not base the determination of the taxable status of property solely on the statement of objects or purposes of the organization, institution, or society seeking an exemption. The use of the property rather than the objects or purposes of the organization, institution, or society shall be the controlling factor in determining the taxable status of property. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Northwest Community Hospital v. Board of Review of Des Moines*, 229 N.W.2d 738.)

80.50(2) In determining the taxable status of property, the assessor shall construe the appropriate exemption statute and these rules in a strict manner. If there exists any doubt as to the taxable status of property, the property shall be subject to taxation. The burden shall be upon the claimant to show that the exemption should be granted. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Southside Church of Christ of Des Moines v. Des Moines Board of Review*, 243 N.W.2d 650; *Aerie 1287, Fraternal Order of Eagles v. Holland*, 226 N.W.2d 22.)

80.50(3) If the assessor determines that all or part of a property is subject to taxation, the assessor shall notify the taxpayer by the issuance of an assessment roll as provided in Iowa Code sections 441.26 and 441.27. If the assessor determines that property has been erroneously exempted from taxation, the assessor shall revoke the exemption for the current assessment year but not for prior assessment years.

80.50(4) The assessor's determination of the taxable status of property may be appealed to the local board of review pursuant to Iowa Code section 441.37.

This rule is intended to implement Iowa Code chapter 427 and sections 441.17(11), 441.26, and 441.27.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.51(441) Responsibility of local boards of review.

80.51(1) If the board of review determines that property has been erroneously exempted from taxation, the board of review shall revoke the exemption for the current assessment year, but not for prior assessment years, and shall give notice to the taxpayer as provided in Iowa Code section 441.36.

80.51(2) If the board of review acts in response to a protest arising from an assessor's determination of the taxable status of property, the board of review shall notify the taxpayer of its disposition of the protest in accordance with the provisions of Iowa Code section 441.37.

This rule is intended to implement Iowa Code sections 441.35, 441.36, and 441.37.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.52(427) Responsibility of director of revenue. The director may revoke or modify an exemption on property if the exemption is found to have been erroneously granted by the local taxing officials. Any taxpayer or taxing district may request that the director revoke or modify an exemption, or the director may on the director's own determination revoke or modify an exemption. The director may revoke or modify an exemption for the tax year commencing in the tax year in which the request is made to the director or for the tax year commencing in the tax year in which the director's own motion is filed. The director shall hold a hearing on the appropriateness of the exemption prior to issuing an order for revocation or modification. The director's order to revoke or modify an exemption may be appealed in accordance with Iowa Code chapter 17A or in the district court of the county in which the property is located.

This rule is intended to implement Iowa Code section 427.1(16).

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.53(427) Application for exemption.

80.53(1) Each society or organization seeking an exemption under Iowa Code subsection 427.1(5), 427.1(8), 427.1(21), or 427.1(33) shall file with the appropriate assessor a statement containing the following information:

- a. The legal description of the property for which an exemption is requested.
- b. The use of all portions of the property, including the percentage of space not used for the appropriate objects of the society or organization and the percentage of time such space is so utilized.
- c. A financial statement showing the income derived and the expenses incurred in the operation of the property.
- d. The name of the organization seeking the exemption.
- e. If the exemption is sought under Iowa Code subsection 427.1(8), the appropriate objects of the society or organization.
- f. The book and page number on which is recorded the contract of purchase or the deed to the property and any lease by which the property is held.
- g. An oath that no persistent violations of the laws of the state of Iowa will be permitted or have been permitted on such property.
- h. The signature of the president or other responsible official of the society or organization showing that information contained in the claim has been verified under oath as correct.

80.53(2) The statement of objects and uses required by Iowa Code subsection 427.1(14) shall be filed only on forms prescribed by the director of revenue and made available by assessors.

80.53(3) Applications for exemptions required under Iowa Code subsection 427.1(14) must be filed with the assessor not later than February 1 of the year for which the exemption is requested.

80.53(4) If a properly completed application is not filed by February 1 of the assessment year for which the exemption would apply, no exemption shall be allowed against the property for that year (1964 O.A.G. 437).

This rule is intended to implement Iowa Code section 427.1, subsections 5, 8, 14, 19 to 24, 27, and 29 to 33.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.54(427) Partial exemptions. In the event a portion of property is determined to be subject to taxation and a portion of the property exempt from taxation, the taxable value of the property shall be an amount which bears the same relationship to the total value of the entire property as the area of the portion subject to taxation bears to the area of the entire property. If a portion of a structure is subject to taxation, a proportionate amount of the value assigned to the land upon which the structure is located shall also be subject to taxation.

This rule is intended to implement Iowa Code subsection 427.1(14).

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.55(427,441) Taxable status of property.

80.55(1) The status of property on July 1 of the fiscal year which commences during the assessment year determines eligibility of the property for exemption in situations where no claim is required to be filed to procure a tax exemption. If the property is in a taxable status on July 1, no exemption is allowable for that fiscal year. If the property is in an exempt status on July 1, no taxes are to be levied against the property during that fiscal year. Exceptions to this rule are as follows:

- a. Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement, or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.
- b. All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless the United States Congress has authorized the taxation of specific federally owned property (1980 O.A.G. 80-1-19). The following exceptions apply:

(1) Property owned by the Federal Housing Authority (FHA) and property owned by the Federal Land Bank Association are subject to taxation, and any tax liabilities existing at the time of the acquisition are not to be canceled (1982 O.A.G. 82-1-16; 12 USCS §2055).

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1 (15 USCS §646).

c. Land owned by the state and leased by the department of corrections or the department of human services pursuant to Iowa Code section 904.302, 904.705, or 904.706 to an entity that is not exempt from property tax is subject to taxation for the term of the lease. This provision applies to leases entered into on or after July 1, 2003. The lessor shall file a copy of the lease with the county assessor of the county where the land is located.

80.55(2) The status of property during the fiscal year for which an exemption was claimed determines eligibility of the property for exemption in situations where a claim is required to be filed to procure a tax exemption. If the property is used for an appropriate purpose for which an exemption is allowable for all of the fiscal year for which the exemption is claimed, no taxes are to be levied against the property during that fiscal year. If the property for which an exemption has been claimed and received is used for an appropriate purpose for which an exemption is allowable for only a portion of the fiscal year for which the exemption is claimed, the taxes shall be prorated in accordance with the period of time the property was in a taxable status during the fiscal year.

This rule is intended to implement Iowa Code sections 427.1(1), 427.1(2), 427.2, 427.18, and 427.19. [ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.56(427) Abatement of taxes. The board of supervisors may abate the taxes levied against property acquired by gift or purchase if the property was acquired after the deadline for filing a claim for property tax exemption if the property would have been exempt under Iowa Code section 427.1, subsection 7, 8, or 9, if a timely claim had been filed.

This rule is intended to implement Iowa Code section 427.3. [ARC 7726B, IAB 4/22/09, effective 5/27/09]

- [Filed 1/16/81, Notice 12/10/80—published 2/4/81, effective 3/11/81]
- [Filed 2/12/82, Notice 1/6/82—published 3/3/82, effective 4/7/82]
- [Filed 4/8/83, Notice 3/2/83—published 4/27/83, effective 6/1/83]
- [Filed 7/1/83, Notice 5/25/83—published 7/20/83, effective 8/24/83]
- [Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]◊
- [Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]
- [Filed 12/14/84, Notice 11/7/84—published 1/2/85, effective 2/6/85]
- [Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
- [Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
- [Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
- [Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]
- [Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
- [Filed 10/27/89, Notice 9/20/89—published 11/15/89, effective 12/20/89]
- [Filed 12/7/90, Notice 10/17/90—published 12/26/90, effective 1/30/91]
- [Filed 10/11/91, Notice 9/4/91—published 10/30/91, effective 12/4/91]
- [Filed 9/23/92, Notice 8/19/92—published 10/14/92, effective 11/18/92]
- [Filed 10/8/93, Notice 9/1/93—published 10/27/93, effective 12/1/93]
- [Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
- [Filed 10/6/95, Notice 8/30/95—published 10/25/95, effective 11/29/95]
- [Filed emergency 10/20/95—published 11/8/95, effective 10/20/95]
- [Filed 12/15/95, Notice 11/8/95—published 1/3/96, effective 2/7/96]
- [Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/8/97]
- [Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]

[Filed 1/7/00, Notice 12/1/99—published 1/26/00, effective 3/1/00]
[Filed 9/15/00, Notice 8/9/00—published 10/4/00, effective 11/8/00]
[Filed 10/12/01, Notice 9/5/01—published 10/31/01, effective 12/5/01]
[Filed 12/19/01, Notice 11/14/01—published 1/9/02, effective 2/13/02]
[Filed 10/25/02, Notice 9/4/02—published 11/13/02, effective 12/18/02]
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]
[Filed 9/10/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
[Filed 12/30/05, Notice 11/9/05—published 1/18/06, effective 2/22/06]
[Filed 10/5/06, Notice 8/30/06—published 10/25/06, effective 11/29/06]
[Filed 1/11/07, Notice 11/22/06—published 1/31/07, effective 3/7/07]
[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]
[Filed 11/12/08, Notice 10/8/08—published 12/3/08, effective 1/7/09]
[Filed ARC 7726B (Notice ARC 7592B, IAB 2/25/09), IAB 4/22/09, effective 5/27/09]
[Filed ARC 8358B (Notice ARC 8224B, IAB 10/7/09), IAB 12/2/09, effective 1/6/10]
[Filed ARC 0467C (Notice ARC 0380C, IAB 10/3/12), IAB 11/28/12, effective 1/2/13]

◊ Two or more ARCs

CHAPTER 226
AGRICULTURAL RULES

701—226.1(423) Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry. The sales price from the sale or rental of farm machinery and equipment directly and primarily used in production of agricultural products and certain items used in agricultural production that are attached to or towed by a self-propelled implement of husbandry is exempt from sales and use tax.

226.1(1) *Farm machinery and equipment.*

a. Exempt. Under this rule, to be eligible for the exemption from the tax, the farm machinery or equipment must be directly and primarily used in production of agricultural products and must also be one of the following:

- (1) A self-propelled implement; or
- (2) An implement customarily drawn or attached to a self-propelled implement; or
- (3) A grain dryer; or
- (4) An auxiliary attachment which improves the performance, safety, operation, or efficiency of a qualifying implement or grain dryer; or
- (5) A replacement part for any item described in subparagraph (1), (2), (3), or (4).

b. Taxable. A vehicle subject to registration as defined in Iowa Code section 423.1, an implement customarily drawn by or attached to a vehicle subject to registration, an auxiliary attachment for a vehicle subject to registration, or any replacement part for a vehicle, implement, or auxiliary attachment for a vehicle subject to registration is not eligible for the exemption allowed under this rule.

226.1(2) *Attachments to self-propelled implements of husbandry.*

a. Exempt. Exempt from the tax under this rule are the following items if, and only if, they are used in agricultural production:

- (1) A snow blower that is to be attached to a self-propelled implement of husbandry; or
- (2) A rear-mounted or front-mounted blade that is to be attached to or towed by a self-propelled implement of husbandry; or
- (3) A rotary cutter that is to be attached to a self-propelled implement of husbandry.

b. Used in agricultural production. Under this subrule, the items must be used in agricultural production, and not “directly and primarily” used in production of agricultural products as is required under subrule 226.1(1).

EXAMPLE: Farmer Jones purchases a front-mounted blade that will be attached to a self-propelled implement of husbandry (e.g., farming tractor). Farmer Jones primarily uses the blade to prepare previously uncultivated land—a use that is not for agricultural production. See subrule 226.1(3). However, Farmer Jones sporadically uses the front-mounted blade for agricultural production. Even though Farmer Jones does not directly and primarily use the front-mounted blade in agricultural production, the front-mounted blade is exempt from sales or use tax because the blade is occasionally used in agricultural production and it is attached to a self-propelled implement of husbandry.

226.1(3) *Definitions and specific provisions.* For the purposes of this rule, the following definitions and provisions apply.

a. Production of agricultural products. The term “production of agricultural products” means the same as the term “agricultural production,” which is defined in rule 701—211.1(423) to mean a farming operation undertaken for profit by the raising of crops or livestock. Nonexclusive examples of items not included within the meaning of the term “agricultural production” are the clearing or preparation of previously uncultivated land, the creation of farm ponds, and the erection of machine sheds, confinement facilities, storage bins, or other farm buildings. See *Trullinger v. Fremont County*, 223 Iowa 677, 273 N.W. 124 (1937). Machinery and equipment used for these purposes would be used for activities which are preparatory to, but not a part of, the production of agricultural products and, therefore, are not exempt.

b. Farm machinery and equipment. The term “farm machinery and equipment” means machinery and equipment specifically designed for use in the production of agricultural products and machinery

and equipment that are not specifically designed for use in the production of agricultural products but are directly and primarily used for that purpose.

EXAMPLE: Farmer Jones raises livestock, and his farming operation requires that fences be repaired to confine the livestock. Farmer Jones purchases a posthole digger that is customarily attached to a tractor and uses the digger to repair the fences used to confine the livestock. The posthole digger is not specifically designed for use in the production of agricultural products but is directly and primarily used in the production of agricultural products. Therefore, the exemption would apply.

c. Self-propelled implement. The term “self-propelled implement” means an implement which is capable of movement from one place to another under its own power. An implement is not self-propelled merely because it has moving parts. The term “self-propelled implement” includes, but is not limited to, the following items: skid loaders and tractors. The term also includes, but is not limited to, the following machinery if capable of movement under its own power: combines, corn pickers, fertilizer spreaders, hay conditioners and windrowers, sprayers, and bean buggies.

d. Implements customarily drawn or attached to self-propelled implements. The following is a nonexclusive, representative list of implements customarily drawn or attached to self-propelled implements: augers, balers, blowers, combines, conveyers, cultivators, disks, drags, dryers (portable), farm wagons, feeder wagons, fertilizer spreaders, front- and rear-end loaders, harrows, hay loaders, hay mowers, hay rakes, husking machines, manure spreaders, planters, plows, rotary hoes, sprayers and tanks, and tillage equipment.

e. Directly used in agricultural production.

(1) Property is “directly used” only if it is used to initiate, sustain, or terminate an exempt activity. In determining whether any property is directly used, consideration should be given to the following factors:

1. The physical proximity of the property to other property clearly exempt as directly used in agricultural production. The closer the property is to exempt property, the more likely it is that the property is directly used in agricultural production.

2. The chronological proximity of the use of the property in question to the use of property clearly exempt as directly used in agricultural production. The closer the proximity of the property’s use within the production process to the use of exempt property, the more likely the use is direct rather than remote.

3. The active causal relationship between the use of the property in question and agricultural production. The fewer intervening causes between the use of the property and the production of the product, the more likely it is that the property is directly used in agricultural production.

(2) The fact that particular machinery or equipment is essential to the production of agricultural products because its use is required either by law or practical necessity does not, of itself, mean that the machinery or equipment is directly used in the production of agricultural products. Machinery or equipment that comes into actual physical contact with the soil or crops during the operations of planting, cultivating, harvesting, and soil preparation will be presumed to be machinery or equipment used in agricultural production.

f. Primarily used in agricultural production. Property is “primarily used” in agricultural production based on the total time it is used in agricultural production in comparison to the time it is used for other purposes. Any property used in agricultural production more than 50 percent of its total use time is eligible for exemption.

g. Beginning and end of agricultural production. Agricultural production begins with the cultivation of land previously cleared for the planting of crops or begins with the purchase or breeding of livestock or domesticated fowl. Agricultural production ceases when an agricultural product has been transported to the point where it will be sold by the producer or processed for further use.

EXAMPLE: Farmer Brown uses a tractor and wagon to haul harvested corn from a field to a grain dryer located on the farm. After the corn is dried, the same tractor and wagon are used to move the grain to a storage bin, also located on the farm. Later, the same tractor and wagon are used to deliver the corn from the farm to the local elevator where the corn is sold. After Farmer Brown deposits the corn there, the local elevator uses its own tractor and wagon to move the corn to a place of relatively permanent storage. Farmer Brown has used the tractor and wagon in the production of agricultural products, and

the exemption would apply to Farmer Brown's tractor and wagon. However, the elevator has not used its tractor and wagon in agricultural production; thus, the exemption would not be allowed for the elevator's tractor and wagon.

h. Grain dryer. The term "grain dryer" includes the heater and the blower necessary to force the warmed air into a grain storage bin. The term "grain dryer" does not include equipment, such as augers and spreaders, used in grain storage or movement, nor does it include any other equipment, such as specialized flooring, that is not a grain dryer. Equipment that is not a grain dryer but is used in grain drying may be exempt if the equipment is a self-propelled implement or customarily drawn or attached to a self-propelled implement and is directly and primarily used in agricultural production.

i. Replacement parts. The term "replacement parts" means any farm machinery or equipment which is substituted for another part that has broken, worn out or has become obsolete or otherwise unable to perform its intended function. Replacement parts are those parts which materially add to the value of farm machinery or equipment, appreciably prolong its life or keep it in its ordinarily efficient operating condition. Excluded from the meaning of the term "replacement parts" are supplies and computer software. Sales of supplies and computer software are taxable. Nonexclusive examples of supplies include: lubricants, oils, greases, and coolants.

Tangible personal property which has an expected useful life of 12 months or more and is used in the operation of farm machinery or equipment is rebuttably presumed to be a replacement part. Tangible personal property which is used in the same manner but has an expected useful life of less than 12 months is rebuttably presumed to be a supply.

(1) For periods prior to July 1, 2008, the sale or lease of a replacement part is exempt from tax if the replacement part is essential to any repair or reconstruction necessary to the exempt piece of farm machinery or equipment used in the production of agricultural products. The term "replacement parts" does not include attachments and accessories which are not essential to the operation of the farm machinery or equipment. Nonexclusive examples of attachments or accessories that are not essential include: cigarette lighters, radios, portable global positioning devices, and add-on air-conditioning units.

(2) For periods beginning on and after July 1, 2008, the sale or lease of a replacement part is exempt from tax if the replacement part is used in any repair or reconstruction of the exempt piece of farm machinery or equipment used in the production of agricultural products. Nonexclusive examples of replacement parts to machinery and equipment which would be exempt include: air-conditioning parts, computer equipment parts, fire equipment parts, glass parts, mirrors, headlights, communication systems, and global positioning equipment parts.

j. Implement of husbandry.

(1) The term "implement of husbandry" means any tool, equipment, or machinery necessary to the carrying on of the business of agricultural production and without which that could not be done. To be an implement of husbandry, the following must both be true:

1. The tool, equipment, or machine must be necessary to the carrying on of the business of agricultural production; and

2. Agricultural production must be impossible without the use of the tool, equipment, or machine.

(2) Whether a given item is an implement of husbandry depends on the facts of each particular case (*Hester v. State*, 108 So.2d 385, 388 (1959)), and in each particular case the person claiming the exemption has the burden of proving that the person is entitled to the exemption. *Dial Corp. v. Iowa Dep't of Revenue*, 634 N.W.2d 643, 646 (Iowa 2001).

k. Snow blower. "Snow blower" as used in this rule means an attachment that has the primary purpose of snow removal by the throwing of snow and that is ordinarily thought of as a snow blower.

l. Rear-mounted or front-mounted blade. "Rear-mounted or front-mounted blade" as used in this rule means a stationary attachment that has a primary purpose of pushing or leveling, for example, sand, dirt, snow, gravel, or manure. The term "rear-mounted or front-mounted blade" does not include mounted buckets or loaders that have a primary purpose of loading or digging.

m. Rotary cutter. "Rotary cutter" as used in this rule means an attachment used for mowing of grassy areas, pastures, and brush, but does not include attachments often referred to as "finishing mowers" and "mid-mount mowers."

226.1(4) *Taxable and nontaxable transactions.* The following are nonexclusive examples of sales and leases of and services for farm machinery or equipment subject to or exempt from tax. Taxable services performed on farm machinery or equipment are subject to tax even when the replacement parts are exempt.

a. A lessor's purchase of farm machinery or equipment is not subject to tax if the machinery or equipment is leased to a lessee who uses it directly and primarily in the production of agricultural products and if the lessee's use of the machinery or equipment is otherwise exempt. To claim exemption from tax, the lessor does not need to make an exempt use of the machinery or equipment as long as the lessee uses the machinery or equipment for an exempt purpose. On and after July 1, 2004, the lease of tangible personal property is treated as the sale of that property for the purposes of Iowa sales and use tax law because leases of tangible personal property are taxable retail sales of that property.

b. A lessor's purchase of a snow blower, rear-mounted or front-mounted blade, or rotary cutter is not subject to tax if such item is leased to a lessee who uses the item in agricultural production and the item will be attached to an implement of husbandry.

c. The owner or lessee of farm machinery or equipment need not be a farmer as long as the machinery or equipment is directly and primarily used in the production of agricultural products and the owner or lessee and the machinery or equipment meet the other requirements of this rule. For example, a person who purchases an airplane designed for use in agricultural aerial spraying and who uses the airplane directly and primarily for agricultural production is entitled to the benefits provided under this rule even though that person is not the owner or occupant of the land where the airplane is used.

d. The owner or lessee of a snow blower, rear-mounted or front-mounted blade, or rotary cutter need not be a farmer as long as the snow blower, rear-mounted or front-mounted blade, or rotary cutter is used in agricultural production and the snow blower, rear-mounted or front-mounted blade, or rotary cutter is attached to an implement of husbandry.

e. The sale or lease, within Iowa, of any farm machinery, equipment, or replacement part for direct and primary use in agricultural production outside of Iowa is a transaction eligible for the exemption if the transaction is otherwise qualified for an exemption under this rule.

f. The sale or lease, within Iowa, of any snow blower, rear-mounted or front-mounted blade, or rotary cutter which is used, outside of Iowa, in agricultural production while attached to an implement of husbandry is a transaction eligible for the exemption, if the transaction is otherwise qualified for an exemption under this rule.

226.1(5) *Auxiliary attachments.* The following is a nonexclusive list of auxiliary attachments for which the sale or use in Iowa is exempt from tax: auxiliary hydraulic valves, cabs, coil tine harrows, corn head pickup reels, dry till shanks, dual tires, extension shanks, fenders, fertilizer attachments and openers, fold kits, grain bin extensions, herbicide and insecticide attachments, kit wraps, no-till coulters, quick couplers, rear-wheel assists, rock boxes, rollover protection systems, rotary shields, stalk choppers, step extensions, trash whips, upper beaters, silage bags, and weights.

This rule is intended to implement Iowa Code subsections 423.3(8) and 423.3(11).

[ARC 7870B, IAB 6/17/09, effective 7/22/09; ARC 0466C, IAB 11/28/12, effective 1/2/13]

701—226.2(423) *Packaging material used in agricultural production.* The sales price from the sale of property which is a container, label, carton, pallet, packing case, wrapping, baling wire, twine, bag, bottle, shipping case, or other similar article or receptacle sold for use in agricultural, livestock, or dairy production is exempt from sales tax.

This rule is intended to implement Iowa Code subsection 423.3(15).

[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.3(423) *Irrigation equipment used in agricultural production.* The sales price from the sale or rental of irrigation equipment used in agricultural production is exempt from tax. The term "irrigation equipment" includes, but is not limited to, circle irrigation systems and trickle irrigation systems, whether installed aboveground or belowground, as long as the equipment is sold or rented by a contractor or

farmer and the equipment is directly and primarily used in agricultural production. The term “agricultural production” is defined in rule 701—211.1(423).

This rule is intended to implement Iowa Code subsections 423.3(12) and 423.3(13).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.4(423) Sale of a draft horse. The sales price from the sale of draft horses, when they are purchased for use and used as draft horses, is not subject to tax. Draft horses are horses that pull loads, including loads in shows, or transport persons or property. For purposes of this rule, horses commonly known as Clydesdales, Belgians, Shires, and Percherons are draft horses. However, upon proper showing by the person or entity claiming exemption, the sales price exemption will be granted by the director for other breeds. However, the burden of proof lies with the person or entity claiming exemption.

This rule is intended to implement Iowa Code subsection 423.3(14).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.5(423) Veterinary services. Veterinary services are not subject to sales tax. Purchases of food, drugs, medicines, bandages, dressings, serums, tonics, and the like which are used in treating livestock raised as part of agricultural production are exempt from tax. Where these same items are used in treating animals maintained as pets or for hobby purposes, sales tax is due. Purchases of equipment and tools used in the veterinary practice are subject to tax. Rule 701—226.17(423) explains the exemption for machinery or equipment used in livestock or dairy production which may be applicable to veterinarians, but should only be claimed with caution. A veterinarian must charge sales tax on any sales of tangible property or enumerated services, such as pet grooming, that are not part of professional veterinarian services.

This rule is intended to implement Iowa Code subsection 423.3(5).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.6(423) Commercial fertilizer and agricultural limestone. Sales of commercial fertilizer and agricultural limestone are exempt from tax only if the purchaser intends to use the fertilizer or limestone for the health promotion of plants produced for market as part of agricultural production. See rule 701—211.1(423) for definitions of “agricultural production” and “plants.” Plant hormones are considered to be commercial fertilizer. Sales of commercial fertilizer or agricultural limestone used for other purposes are subject to sales tax. Examples of taxable use include, but are not limited to: commercial fertilizer sold for application on a lawn, golf course, or cemetery.

This rule is intended to implement Iowa Code subsections 423.3(4) and 423.3(5).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.7(423) Sales of breeding livestock. The sale of agricultural livestock is exempt from tax only if at the time of purchase the purchaser intends to use the livestock primarily for breeding. The sale of agricultural livestock which is capable of breeding, but will not be used for breeding or primarily for breeding, is not exempt from tax. However, sales of most nonbreeding agricultural livestock to farmers would be a sale for resale and exempt from tax. See rule 701—211.1(423) for a definition of “livestock.”

EXAMPLE 1: A breeding service purchases a prize bull from a farmer. At the time of sale, the intent of the purchaser is to use the bull for breeding other cattle. The sale of the bull is exempt from tax even though three years later the breeding service sells the bull to a meat packer.

EXAMPLE 2: A farmer purchases dairy cows. To ensure production of milk over a sustained period of time, dairy cows must be bred to produce calves. If a farmer purchases dairy cows for the primary purpose of using them to produce milk and incidentally breeds them to ensure that this milk will be produced, the sale of the dairy cows to the farmer is not exempt from tax. If the farmer purchases the dairy cows for the primary purpose of using them to produce calves and, incidental to that purpose, at times sells the milk which the cows produce, the sale of the dairy cows to the farmer is exempt from tax.

This rule is intended to implement Iowa Code subsection 423.3(3).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.8(423) Domesticated fowl. The purchase of any domesticated fowl for the purpose of providing eggs or meat is exempt from tax, whether purchased by a person engaged in agricultural production or not. See rule 701—211.1(423) for a definition of the term “domesticated fowl.”

This rule is intended to implement Iowa Code subsection 423.3(3).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.9(423) Agricultural health promotion items.

226.9(1) Definitions. For purposes of this rule, the following definitions apply:

“*Adjuvant*” means any substance which is added to a herbicide, a pesticide, or an insecticide to increase its potency.

“*Agricultural production*” means the same as defined in rule 701—211.1(423).

“*Food*” includes vitamins, minerals, other nutritional food supplements, and hormones sold to promote the growth of livestock.

“*Herbicide*” means any substance intended to prevent, destroy, or retard the growth of plants including fungi. The term shall include preemergence, postemergence, lay-by, pasture, defoliant, and desiccant herbicides and fungicides.

“*Insecticide*” means any substance used to kill insects. Any substance used merely to repel insects is not an insecticide. Mechanical devices which are used to kill insects are not insecticides.

“*Livestock*” means the same as defined in rule 701—211.1(423). For the purposes of this rule, “livestock” includes domesticated fowl.

“*Medication*” includes antibiotics or other similar drugs administered to livestock.

“*Pesticide*” means any substance which is used to kill rodents or smaller vermin, other than insects, such as nematodes, spiders, or bacteria. For the purposes of this rule, a disinfectant is a pesticide. Excluded from the term “pesticide” is any substance which merely repels pests or any device, such as a rat trap, which kills pests by mechanical action.

“*Plants*” means the same as defined in rule 701—211.1(423).

“*Surfactant*” means a substance which is active on a surface.

226.9(2) Sales of agricultural health promotion items and adjuvants. Sales of herbicides, pesticides, insecticides, food, and medication which are to be used in disease, weed, or insect control or health promotion of plants or livestock produced as part of agricultural production for market are exempt from tax. Sales of adjuvants, surfactants, and other products which enhance the effects of herbicides, pesticides, or insecticides used in disease, weed, or insect control or health promotion of plants or livestock produced as part of agricultural production for market are also exempt from tax. Sales of herbicides, pesticides, insecticides, food, medication, and products to any person not engaged in agricultural production for market are exempt if the property sold will be used for an exempt purpose, e.g., in disease control or on the behalf of another person engaged in agricultural production for market.

This rule is intended to implement Iowa Code subsections 423.3(5) and 423.3(16).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.10(423) Drainage tile. The sale or installation of drainage tile which is to be used in disease control or weed control or in health promotion of plants or livestock produced as part of agricultural production for market is exempt from tax. In all other cases, drainage tile will be considered a building material and subject to tax under the provisions of Iowa Code section 423.2. Sales of the following materials associated with the installation of agricultural drainage tile are also exempt from tax: tile intakes, outlet pipes and outlet guards, aluminum and gabion structures, erosion control fabric, water control structures, and tile fittings.

This rule is intended to implement Iowa Code section 423.3.
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.11(423) Materials used for seed inoculations. Materials used for seed inoculations are exempt from sales tax. All forms of inoculation, whether for promotion of better growth and healthier

plants or for the prevention or cure of plant mildew or disease of seeds and bulbs, are intended for the same general purpose and are therefore exempt.

This rule is intended to implement Iowa Code section 423.3.

[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.12(423) Fuel used in agricultural production.

226.12(1) Definitions. For purposes of this rule, the following definitions apply:

“*Aquaculture*” means the cultivation of aquatic animals and plants, including fish, shellfish, and seaweed, in natural or controlled marine or freshwater environments.

“*Fuel*” includes electricity.

“*Implement of husbandry*” means the same as defined in rule 701—211.1(423).

“*Livestock*” means the same as defined in rule 701—211.1(423) and includes domesticated fowl.

“*Plants*” means flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business. The term does not include trees, shrubs, other woody perennials, or fungi.

226.12(2) Exemptions.

a. *Fuel used for livestock buildings.* The sale of fuel used to provide heating or cooling for livestock buildings is exempt from tax.

b. *Fuel used for plant production buildings.*

(1) Sales of fuel for heating or cooling greenhouses, buildings, or parts of buildings used for the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business are exempt from tax. See subparagraph (3) for the formula for calculating exempt use if a building is only partially used for growing plants.

(2) Fuel used in a plant production building for purposes other than heating or cooling (e.g., lighting) or for purposes other than direct use in plant production (e.g., heating or cooling office space) is not eligible for this exemption. Examples of nonexempt purposes for which a portion of a greenhouse might be used include, but are not limited to, portions used for office space, loading docks, storage of property other than plants, housing of heating and cooling equipment, and packaging plants for shipment.

(3) Calculating proportional exemption. It may be possible to calculate the amount of total fuel used in plant production by dividing the number of square feet of the greenhouse heated or cooled and used for raising plants by the number of square feet heated or cooled in the entire greenhouse. It may be necessary to alter this formula (by the use of separate metering, for example) if a greenhouse has a walk-in cooler and the cooler is used directly in plant production. See 701—subrule 15.3(3) regarding fuel exemption certificates and subrule 226.18(12) regarding seller’s and purchaser’s liability for sales tax.

EXAMPLE 1: Bill Brown’s herb farming operation has a separate greenhouse used to grow his herbs. All other aspects of his farm operations are conducted in other facilities. Because the greenhouse is used exclusively for raising plants, Bill Brown is able to claim exemption from sales tax on the cost of fuel used to heat and cool the greenhouse.

EXAMPLE 2: Martha Green’s greenhouse has a separate meter to track the electricity used only for heating or cooling. Her greenhouse is used partially for growing plants and partially for a nonexempt purpose. Martha Green is able to claim a proportional exemption from sales tax on the cost of fuel used to heat and cool her growing plants. Martha Green calculates her exempt amount by dividing the number of heated or cooled square feet of her greenhouse that are used for raising plants by the total number of square feet heated or cooled in the entire greenhouse.

Total square footage used for raising plants	=	800
Total square footage	=	1,000
TOTAL:	$800 \div 1,000$	= .80 or 80%

Thus, 80 percent of the cost of the fuel used to heat and cool Martha Green’s greenhouse is exempt from sales tax.

c. *Sales of fuel used for aquaculture.* Sales of fuel used in the raising of agricultural products by aquaculture are exempt from tax.

d. *Sales of fuel, gas, electricity, water, and heat consumed in implements of husbandry.* The sale of fuel used in any implement of husbandry, whether self-propelled or not, is exempt from tax if the fuel is consumed while the implement is engaged in agricultural production. For example, the sale of fuel used not only in tractors or combines, but also used in implements which cannot move under their own power, is exempt from tax. The sale of fuel used in milk coolers and milking machines, grain dryers, and stationary irrigation equipment and in implements used to handle feed, grain, and hay and to provide water for livestock is exempt from tax even though these implements of husbandry would not ordinarily be considered self-propelled.

226.12(3) Partial use. If a building is used partially for an exempt agricultural purpose and partially for a nonexempt purpose, a proportional exemption from sales tax may be claimed based upon a percentage obtained by dividing the number of square feet of the building heated or cooled and used for an exempt agricultural purpose by the number of square feet heated or cooled in the entire building.

This rule is intended to implement Iowa Code subsection 423.3(6).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.13(423) Water used in agricultural production. Water sold to farmers who are purchasing water for household use, sanitation, swimming pools, or other personal use is subject to sales tax. Water sold to farmers and others and used directly as drinking water for livestock production (including the production of domesticated fowl) is exempt from sales tax. When water is used for exempt purposes, as in livestock production, as well as for taxable purposes, the water may, when practical, be separately metered and separately billed to clearly distinguish the water consumed for exempt purposes from taxable purposes. When it is impractical to separately meter exempt water from taxable water, the purchaser may furnish to the seller a statement enabling the seller to determine the percentage of water subject to exemption. In the absence of proof to the contrary, the retailer of the water shall bill and collect tax on the first 5,000 gallons of water per month. The first 5,000 gallons of water per month will be considered to be for nonexempt use, and the balance will be considered to be used as part of agricultural production.

This rule is intended to implement Iowa Code subsection 423.3(5).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.14(423) Bedding for agricultural livestock or fowl. The sales price from the sale of woodchips, sawdust, hay, straw, paper, or any other materials used for bedding in the production of agricultural livestock (including domesticated fowl) is exempt from tax. See rule 701—211.1(423) for definitions applicable to this rule.

This rule is intended to implement Iowa Code subsection 423.3(9).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.15(423) Sales by farmers. The sale of grain, livestock, or any other farm or garden product by the producer thereof ordinarily constitutes a sale for resale, processing, or human consumption, and is not subject to tax. Farmers selling tangible personal property not otherwise exempt to ultimate consumers or users shall hold a permit and collect and remit sales tax on the sales price from their sales.

This rule is intended to implement Iowa Code subsections 423.3(2), 423.3(51), and 423.3(57).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.16(423) Sales of livestock (including domesticated fowl) feeds. Tax shall not apply to the sale of feed for any form of animal life when the product of the animals constitutes food for human consumption. Tax shall apply on feed sold for consumption by pets. Antibiotics that are administered as an additive to feed or drinking water and vitamins and minerals that are sold for livestock (including domesticated fowl) are exempt from tax.

This rule is intended to implement Iowa Code subsection 423.3(16).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.17(423) Farm machinery, equipment, and replacement parts used in livestock or dairy production.

226.17(1) Sales or rentals of farm machinery, equipment, and replacement parts used in livestock or dairy production are exempt from sales and use tax.

226.17(2) Definitions and special provisions. For purposes of this rule, the following definitions and special provisions apply.

a. Machinery. The term “machinery” means major mechanical machines, or major components thereof, which contribute directly and primarily to the livestock or dairy production process. Usually, a machine is a large object with moving parts which performs work through the expenditure of energy, either mechanical (e.g., gasoline or other fuel) or electrical.

b. Equipment. The term “equipment” means tangible personal property (other than a machine) that is directly and primarily used in livestock or dairy production. Equipment may be characterized as property which performs a specialized function and which has no moving parts, or if the equipment does possess moving parts, its source of power is external to it. The following nonexclusive examples differentiate between machinery and equipment:

EXAMPLE 1: An auger places feed into a cattle feeder. The auger is a piece of machinery; the cattle feeder is a piece of equipment.

EXAMPLE 2: An electric pump is used to pump milk into a bulk milk tank. The electric pump is a piece of machinery; the bulk milk tank is equipment.

c. Property used in livestock or dairy production which is neither equipment nor machinery.

(1) Real property. The ground or the earth is not machinery or equipment. A building is not machinery or equipment. See *Cloverleaf Cold Storage Co. v. Dep’t of Revenue and Fin.*, 2002 WL 31769009 (Iowa Dept. Insp. App. July 26, 2002). Therefore, tangible personal property which is sold for incorporation into the ground or a building in such a manner that the property will become a part of the ground or the building is taxable except for machinery and equipment. Generally, property incorporated into the ground or a building has become a part of the ground or the building if its removal would substantially damage the property, ground, or building or would substantially diminish the value of the property, ground, or building. Fence posts embedded in concrete, electrical wiring, light fixtures, fuse boxes, and switches are examples of property sold for incorporation into the ground or a building, respectively. For the purpose of the following example, assume that property is being sold to a contractor rather than a person engaged in livestock or dairy production. If the property is sold to a contractor, the retailer would be required to consider the property building material and charge the contractor sales tax upon the purchase price of the building material. If the property is building material, sale of the property is not exempt from Iowa sales tax. Rule 701—219.3(423) contains a characterization of building material and a list of specific examples of building material.

(2) Supplies. Supplies are neither machinery nor equipment. Tangible personal property is a farm supply if it is used up or destroyed by virtue of its use in livestock or dairy production or, because of its nature, can only be used once in livestock or dairy production. A light bulb is an example of a farm supply which is not machinery or equipment. See subrule 226.19(4) for examples of farm supplies which could be mistaken for equipment and are not exempt from tax on other grounds.

d. Hand tools. The term “hand tools” means tools which can be held in the hand or hands and which are powered by human effort. Hand tools specifically designed for use in livestock or dairy production are exempt from tax as equipment. Mechanical devices that are held in the hand and driven by electricity from some source other than human muscle power are, if they meet all other qualifications, exempt from tax as farm machinery.

e. “Directly used” in livestock or dairy production. To determine if machinery or equipment is “directly used” in livestock or dairy production, one must first ensure that the machinery or equipment is used during livestock or dairy production and not before that process has begun or after it has ended. See paragraph “g” of this subrule for an explanation of when livestock or dairy production begins and ends.

(1) Definition. If the machinery or equipment is used in livestock or dairy production, “directly used” means the use is an integral and essential part of production as distinguished from use that is

incidental or merely convenient to production or use that is remote from production. Machinery or equipment may be necessary to livestock or dairy production, but its use is so remote from production that it is not directly used in that production.

(2) Determination. In determining whether machinery or equipment is directly used, consideration should be given to the following factors:

1. The physical proximity of the machinery or equipment to other machinery or equipment clearly exempt as directly used in livestock or dairy production. The closer the machinery or equipment is to exempt machinery or equipment, the more likely it is that the machinery or equipment is directly used in livestock or dairy production.

2. The chronological proximity of the use of machinery or equipment in question to the use of machinery clearly exempt as directly used in livestock or dairy production. The closer the proximity of the machinery's or equipment's use within the production process to the use of exempt machinery or equipment, the more likely the use is direct rather than remote.

3. The active causal relationship between the use of the machinery or equipment in question and livestock or dairy production. The fewer intervening causes between the use of the machinery or equipment and the production of the product, the more likely it is that the machinery or equipment is directly used in production.

f. "Primarily used" in livestock or dairy production. Machinery or equipment is "primarily used" in livestock or dairy production based on the total time it is used in livestock or dairy production in comparison to the time it is used for other purposes. Any unit of machinery or equipment directly used in livestock or dairy production more than 50 percent of its total use time is eligible for exemption.

g. Beginning and end of livestock or dairy production. Livestock or dairy production begins with the purchase or breeding of livestock or dairy animals. Livestock or dairy production ceases when an animal or the product of an animal's body (e.g., wool) has been transported to the point where it will be sold by the farmer or processed.

h. Machinery and equipment design. Farm machinery and equipment used in livestock or dairy production is eligible for exemption if specifically designed for use in livestock or dairy production. Farm machinery and equipment which are not specifically designed for use in livestock or dairy production, but are directly and primarily used in livestock or dairy production, are eligible for exemption with the exception of common or ordinary hand tools.

EXAMPLE: Farmer Jones raises livestock and must use fans to cool the animals. Farmer Jones buys electric fans designed for use in a residence, but uses them directly and primarily to cool the livestock. The fans' use would be considered exempt.

i. Replacement parts. The term "replacement parts" means the same as defined in subrule 226.1(2), paragraph "i."

226.17(3) Examples of machinery and equipment directly used in livestock or dairy production.

a. Machinery and equipment used to transport or limit the movement of livestock or dairy animals (e.g., electric fence equipment, portable fencing, head gates, and loading chutes) are directly used in livestock or dairy production.

b. Machinery and equipment used in the conception, birth, feeding, and watering of livestock or dairy animals (e.g., artificial insemination equipment, portable farrowing pens, feed carts, and automatic watering equipment) are directly used in livestock or dairy production.

c. Machinery and equipment used to maintain healthful or sanitary conditions in the immediate area where livestock are kept (e.g., manure gutter cleaners, automatic cattle oilers, fans, and heaters if not real property) are directly used in livestock or dairy production.

d. Machinery and equipment used to test or inspect livestock during production are directly used in livestock or dairy production.

226.17(4) Taxable examples. The following are nonexclusive examples of machinery or equipment which would not be directly used in livestock or dairy production.

a. Machinery or equipment used to assemble, maintain, or repair other machinery or equipment directly used in livestock or dairy production (e.g., welders, paint sprayers, and lubricators).

b. Machinery or equipment used in farm management, administration, advertising, or selling (e.g., a computer used for record keeping, calculator, office safe, telephone, books, and farm magazines).

c. Machinery or equipment used in the exhibit of livestock or dairy animals (e.g., blankets, halters, prods, leads, and harnesses).

d. Machinery or equipment used in safety or fire prevention, even though the machinery or equipment is required by law.

e. Machinery or equipment for employee or personal use. Machinery or equipment used for the personal comfort, convenience, or use by a farmer, the farmer's family or employees, or persons associated with the farmer is not exempt from tax. Examples of such machinery and equipment include the following: beds, mattresses, blankets, tableware, stoves, refrigerators, and other equipment used in conjunction with the operation of a farm home, or other facilities for farm employees.

f. Machinery or equipment used for heating, cooling, ventilation, and lighting of farm buildings generally.

g. Vehicles subject to registration.

226.17(5) The sales price, not including services, of the following machinery or equipment is exempt from tax regardless of whether the machinery or equipment remains tangible personal property after installation or is incorporated into the realty: auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment, including auger systems, curtains and curtain systems, drip systems, fan and fan systems, shutters, inlets, shutter or inlet systems, refrigerators, and replacement parts if all of the following conditions are met:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production.

b. The implement is not a self-propelled implement or implement customarily drawn or attached to self-propelled implements.

c. The replacement part is used in a repair or reconstruction of the exempt piece of farm machinery or equipment used in the production of agricultural products.

226.17(6) Auxiliary attachments exemption. Sales of auxiliary attachments which improve the performance, safety, operation, or efficiency of exempt machinery or equipment are exempt from tax. Sales of replacement parts for these auxiliary attachments are also exempt.

226.17(7) Seller's and purchaser's liability for sales tax. The seller shall be relieved of sales tax liability if the seller takes from the purchaser an exemption certificate stating that the purchase is of machinery and equipment meeting the requirements of this rule. The exemption certificate must be fully completed. If items purchased tax-free pursuant to an exemption certificate are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely and directly liable for sales tax and shall remit the tax to the department.

This rule is intended to implement Iowa Code subsections 423.3(11) and 423.3(15).
[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.18(423) Machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants.

226.18(1) The sales or rentals of machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants are exempt from sales and use tax. The production of flowering, ornamental, or vegetable plants by a grower in a commercial greenhouse or at another location is considered to be a part of agricultural production and exempt from sales tax. The term "plants" does not include trees, shrubs, other woody perennials, or fungi.

226.18(2) Definitions and special provisions. For purposes of this rule, the following definitions and special provisions apply.

a. *Machinery.* The term "machinery" means major mechanical machines, or major components thereof, which contribute directly and primarily to the flowering, ornamental, or vegetable plant production process. Usually, a machine is a large object with moving parts which performs work through the expenditure of energy, either mechanical (e.g., gasoline or other fuel) or electrical.

b. Equipment. The term “equipment” means tangible personal property (other than a machine) that is directly and primarily used in the flowering, ornamental, or vegetable plant production process. Equipment may be characterized as property which performs a specialized function which, of itself, has no moving parts, or if the equipment does possess moving parts, its source of power is external to it.

c. Plants. The term “plants” means flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business. The term does not include trees, shrubs, other woody perennials, or fungi.

d. Property used in the flowering, ornamental, or vegetable plant production process which is neither equipment nor machinery.

(1) Real property. The ground or the earth is not machinery or equipment. A building is not machinery or equipment. See *Cloverleaf Cold Storage Co. v. Dep’t of Revenue and Fin.*, 2002 WL 31769009 (Iowa Dept. Insp. App. July 26, 2002). Therefore, tangible personal property which is sold for incorporation into the ground or a building in such a manner that the property will become a part of the ground or the building is taxable except for machinery and equipment. Generally, property incorporated into the ground or a building has become a part of the ground or the building if its removal would substantially damage the property, ground, or building or would substantially diminish the value of the property, ground, or building. Fence posts embedded in concrete, electrical wiring, light fixtures, fuse boxes, and switches are examples of property sold for incorporation into the ground or a building, respectively. For the purpose of this example, assume that the property is being sold to a contractor rather than a person engaged in the flowering, ornamental, or vegetable plant production process. If the property is sold to a contractor, the retailer would be required to consider the property building material and charge the contractor sales tax upon the purchase price of this building material. If the property is building material, sale of the property is not exempt from Iowa sales tax. Rule 701—219.3(423) contains a characterization of building material and a list of specific examples of building material.

(2) Supplies. Supplies are neither machinery nor equipment. Tangible personal property is a supply if it is used up or destroyed by virtue of its use in the flowering, ornamental, or vegetable plant production process or, because of its nature, can only be used once in the flowering, ornamental, or vegetable plant production process. A light bulb is an example of a supply which is not machinery or equipment. See subrule 226.19(4) for examples of supplies which could be mistaken for equipment and are not exempt from tax on other grounds.

e. Hand tools. The term “hand tools” means tools which can be held in the hand or hands and which are powered by human effort. Hand tools specifically designed for use in the flowering, ornamental, or vegetable plant production process are exempt from tax as equipment. Mechanical devices that are held in the hand and driven by electricity from some source other than human muscle power are, if they meet all other qualifications, exempt from tax.

f. “Directly used” in the flowering, ornamental, or vegetable plant production process. To determine if machinery or equipment is “directly used” in the flowering, ornamental, or vegetable plant production process, one must first ensure that the machinery or equipment is used during the flowering, ornamental, or vegetable plant production process and not before that process has begun or after it has ended. See paragraph “h” of this subrule for an explanation as to when the flowering, ornamental, or vegetable plant production process begins and ends.

(1) Definition. If the machinery or equipment is used in the flowering, ornamental, or vegetable plant production process, “directly used” means the use is an integral and essential part of production as distinguished from use that is incidental or merely convenient to production or use that is remote from production. Machinery or equipment may be necessary to the flowering, ornamental, or vegetable plant production process, but its use is so remote from production that it is not directly used in that production.

(2) Determination. In determining whether machinery or equipment is directly used, consideration should be given to the following factors:

1. The physical proximity of the machinery or equipment to other machinery or equipment clearly exempt as directly used in the flowering, ornamental, or vegetable plant production process. The closer the machinery or equipment is to exempt machinery or equipment, the more likely it is that the machinery or equipment is directly used in the flowering, ornamental, or vegetable plant production process.

2. The chronological proximity of the use of machinery or equipment in question to the use of machinery clearly exempt as directly used in the flowering, ornamental, or vegetable plant production process. The closer the proximity of the machinery's or equipment's use within the production process is to the use of exempt machinery or equipment, the more likely the use is direct rather than remote.

3. The active causal relationship between the use of the machinery or equipment in question and the flowering, ornamental, or vegetable plant production process. The fewer intervening causes between the use of the machinery or equipment and the production of the product, the more likely it is that the machinery or equipment is directly used in production.

g. "Primarily used" in flowering, ornamental, or vegetable plant production. Machinery or equipment is "primarily used" in flowering, ornamental, or vegetable plant production based upon the total time it is used in flowering, ornamental, or vegetable plant production in comparison to the time it is used for other purposes. Any unit of machinery or equipment directly used in flowering, ornamental, or vegetable plant production more than 50 percent of its total use time is eligible for exemption.

h. Beginning and end of flowering, ornamental, or vegetable plant production. Flowering, ornamental, or vegetable plant production begins with the purchase of seeds or starter plants. Flowering, ornamental, or vegetable plant production ceases when a plant has grown to the size or weight at which it will be prepared for shipment to the destination where it will be marketed.

i. Machinery and equipment design. Machinery and equipment used in flowering, ornamental, or vegetable plant production are eligible for exemption if they were specifically designed for use in flowering, ornamental, or vegetable plant production. Machinery and equipment which are not specifically designed for use in flowering, ornamental, or vegetable plant production, but are directly and primarily used in flowering, ornamental, or vegetable plant production, are eligible for exemption with the exception of common or ordinary hand tools.

EXAMPLE: Bob Jones raises tulips and must use a thermometer to monitor the temperature in his greenhouse. Bob Jones buys a thermometer designed for use in a residence, but uses it directly and primarily to monitor the temperature in his greenhouse. The thermometer's use would be considered exempt.

j. Replacement parts. The term "replacement parts" means the same as defined in subrule 226.1(2), paragraph "i."

226.18(3) Examples of machinery and equipment directly used in flowering, ornamental, or vegetable plant production can be found in subrule 226.19(3).

226.18(4) Taxable examples. The following are nonexclusive examples of machinery or equipment which would not be directly used in flowering, ornamental, or vegetable plant production.

a. Machinery or equipment used to assemble, maintain, or repair other machinery or equipment directly used in flowering, ornamental, or vegetable plant production.

b. Machinery or equipment used in the growing operation's management, administration, advertising, or selling (e.g., calculators, office safes, telephones, books, and plant magazines).

c. Machinery or equipment used in the exhibit of flowering, ornamental, or vegetable plants.

d. Machinery or equipment used in safety or fire prevention, even though the machinery or equipment is required by law.

e. Machinery or equipment for employee or personal use. Machinery or equipment used for the personal comfort, convenience, or use by a grower, the grower's family or employees, or persons associated with the grower is not exempt from tax. Examples of such machinery and equipment include the following: beds, mattresses, blankets, tableware, stoves, refrigerators, and other equipment used in conjunction with the operation of a grower's home, or other facilities for the grower's employees.

f. Machinery or equipment used for heating, cooling, ventilation, and lighting of office, retail, or display buildings where production does not occur.

g. Vehicles subject to registration.

226.18(5) Packing material used in flowering, ornamental, or vegetable plant production. The sales price for the sale of property which is a container, label, carton, pallet, packing case, wrapping, baling wire, twine, bag, bottle, shipping case, or other similar article or receptacle sold for use in the production of flowering, ornamental, or vegetable plants in commercial greenhouses or other places which sell such

items in the ordinary course of business is not subject to sales tax. Containers and packaging materials include but are not limited to boxes, trays, labels, sleeves, tape, and staples.

226.18(6) Sales of self-propelled implements. Sales of self-propelled implements or implements customarily drawn or attached to self-propelled implements and replacement parts for the same are exempt from tax if the implements are used directly and primarily in the production of plants in commercial greenhouses or elsewhere. Exempt implements include, but are not limited to, forklifts used to transport pallets of plants, wagons containing sterilized soil, and tractors used to pull these items.

226.18(7) Sales of machinery and equipment used in plant production which are not self-propelled or attached to self-propelled machinery and equipment are exempt from tax. Rule 701—226.19(423) includes nonexclusive examples of machinery and equipment which are not self-propelled or attached to self-propelled machinery and equipment and which are directly and primarily used in plant production.

226.18(8) Fuel used in plant production. See subrule 226.12(2), paragraph “b.”

226.18(9) Sales of water used in the production of plants are exempt from tax. If water is not separately metered, the plants’ grower must determine by use of a percentage the portion of water used for a taxable purpose and the portion used for an exempt purpose. Nonexclusive examples of taxable usage include rest rooms, sanitation, lawns, and vehicle wash.

226.18(10) Agricultural health promotion items. Sales to a commercial greenhouse of fertilizer, limestone, herbicides, pesticides, insecticides, plant food, and medication for use in disease, weed, and insect control or in other health promotion of flowering, ornamental, or vegetable plants are exempt from tax. For the purposes of this rule, a virus, bacteria, fungus, or insect which is purchased for use in killing insects or other pests is an insecticide or pesticide. Refer to rule 701—226.9(423) for more information regarding these exemptions.

226.18(11) Miscellaneous exempt and taxable plant sales.

a. Sales of pots, soil, seeds, bulbs, and starter plants for use in plant production are not the sale of machinery or equipment, but can be sales for resale and exempt from tax if the pots and soil are sold with the final product or become the finished product.

b. Sales of portable buildings which will be used to display plants for retail sales are taxable.

c. Sales of whitewash which will be painted on greenhouses to control the amount of sunlight entering those greenhouses are taxable sales of a supply rather than exempt sales of equipment.

226.18(12) Seller’s and purchaser’s liability for sales tax. The seller shall be relieved of sales tax liability if the seller receives from the purchaser an exemption certificate stating that the purchase is of machinery and equipment meeting the requirements of this rule. The exemption certificate must be fully completed. If items purchased tax-free pursuant to an exemption certificate are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely and directly liable for the sales tax and shall remit the tax to the department.

This rule is intended to implement Iowa Code subsections 423.3(11) and 423.3(15).

[ARC 7870B, IAB 6/17/09, effective 7/22/09]

701—226.19(423) Nonexclusive lists. The following tables list items that are taxable or exempt.

226.19(1) Exempt for agricultural production.

adjuvants	irrigation equipment
alternators and generators*	kill cones
augers*	limestone, agricultural
balers	manure spreaders
bale transportation equipment	mowers, hay
baling wire and binding twine	oil filters
batteries for exempt machinery	oil pumps
blowers, grain dryer	packing materials
brush hogs*	pesticides

combines, cornheads, platforms	pickers
conveyors, temporary or portable*	plants (seeds)
corn pickers	planters
crawlers, tractor	plows
cultipackers	piston rings
cultivators	pruning and picking equipment*
discs	replacement parts
draft horses	rock pickers
drags	rollers*
drainage pipe and tile	rotary blade mowers; not lawn mowers
dusters*	rotary hoes
ensilage cutters	seeders
ensilage forks and trucks (a pickup does not qualify)	seed cleaners*
farm wagons and accessories	seed planters
fertilizer, agricultural	seeds
fertilizer spreaders	self-propelled implements
filters	shellers*
forage harvesters, boxes	silo blowers, unloaders*
fuel for grain drying or other agricultural production	sowers
gaskets	spark plugs for exempt machinery
grain augers, portable*	sprayers*
grain drills	spreaders
grain dryer, heater and blower only	sprinklers
grain planters	subsoilers
harrows	surfactants
hay conditioners	tillers
hay hooks	tires for exempt machinery
hay loaders	tractor chains
herbicides	tractors, farm
implements customarily drawn or attached to a self-propelled implement	tractor weights
insecticides	vegetable harvesters
	weeders*

*Exempt if drawn or attached to a self-propelled farm implement and directly and primarily used in agricultural production or, if portable, used directly and primarily in agricultural production.

226.19(2) *Exempt for dairy and livestock production.*

adjuvants	heaters, portable
alternators and generators ¹	hog feeders, portable
artificial insemination equipment	hog ringers ³
auger systems	hoof trimmers, portable ³
automatic feeding systems, portable	hypodermic syringes and needles, nondisposable
batteries for exempt machinery	implements customarily drawn or attached to a self-propelled implement
barn ventilators	incubators, portable
bedding materials ²	inlets and inlet systems
breeding stock, agricultural	inoculation materials
bulk feeding tanks, portable	insecticides
bulk milk coolers and tanks, portable	kill cones
calf weaners and feeders, portable	livestock feeding, watering and handling equipment, portable
cattle feeders, portable	loading chutes, portable
chain and rope hoists, portable ¹	manure brooms, portable ³
chicken pickers, plucking equipment	manure handling equipment, includes front-end and rear-end loaders, portable ³
chick guards	manure scoops, portable ¹
clipping machines, portable ³	medications
conveyors, temporary or portable ¹	milk coolers, portable
cow stalls, portable	milking equipment, includes cans, etc. ³
cow ties, portable	milking machines
cow watering and feeding bowls, portable	milk strainers and strainer disks, if not disposable
crawlers, tractor	milk tanks, portable
currying and oiling machines, portable	pesticides
curtains and curtain systems	poultry feeders, portable
dehorner	poultry founts, portable
domestic fowl	poultry litters, portable
draft horses	poultry nests, portable
drip systems	refrigerators
electric fence equipment, portable	replacement parts
fans and fan systems	sawdust ²
farm wagons and accessories	self-propelled implements
farrowing houses, crates, stalls, portable	shutters and shutter systems
feed	space heaters, portable
feed bins, portable	specialized flooring, portable
feed carts, portable	sprayers ¹
feed elevators, portable	squeeze chutes, stalls, portable
feed grinders, portable	stanchions, portable
feed scoops ³	surfactants
feed tanks, portable	tires for exempt machinery
feeder chutes, portable	thermometers ³

feeders, portable	tractor chains
fence and fencing supplies, temporary or portable	tractors, farm
foggers	tractor weights
fuel to heat or cool livestock buildings	vacuum coolers
gaskets	ventilators
gates, portable	water filters, heaters, pumps, softeners, portable
gestation stalls, portable	waterers/watering tanks, portable
grooming equipment, portable ³	weaners
head gates, portable	wood chips ²

¹Exempt if drawn or attached to a self-propelled farm implement and directly and primarily used in dairy or livestock production or, if portable, used directly and primarily in dairy or livestock production.

²Exempt when used as livestock and poultry bedding.

³Designed for farm use.

226.19(3) *Exempt for flowering, ornamental, or vegetable plant production.*

air-conditioning pads	greenhouse monorail systems*
airflow control tubes	greenhouse thermometers
atmospheric CO ₂ control and monitoring equipment	handcarts used to move plants
backup generators	lighting which provides artificial sunlight
bins holding sterilized soil	overhead heating, lighting, and watering systems*
control panels for heating and cooling systems*	overhead tracks for holding potted plants*
coolers used to chill plants*	plant tables*
cooling walls* or membranes	plant watering systems*
equipment used to control water levels for subirrigation	portable buildings used to grow plants*
fans used for cooling and ventilating*	seeding and transplanting machines
floor mesh for controlling weeds	soil pot and soil flat filling machines
germination chambers	steam generators for soil sterilization*
greenhouse boilers*	warning devices which monitor excess heat or cold
greenhouse netting or mesh when used for light and heat control	watering booms

*Exempt if not real property. "Real property" is defined in Iowa Code subsection 4.1(13) as "lands, tenements, hereditaments, and all rights thereto and interests therein, equitable as well as legal." See 701—Chapter 219.

226.19(4) *Taxable even if used in agricultural production.*

additives	lubricants and fluids
air compressors	lumber*
air conditioners, unless a replacement part for exempt machinery	marking chalk
air tanks	mops
antifreeze	motor oils
axes	nails
barn cleaner, permanent	office supplies
baskets	oxygen

belt dressing	packing room supplies
bins, permanent	paint and paint sprayers
brooms	pliers
buckets	posthole diggers, hand tool
building materials* and supplies	poultry brooders, permanent
burlap cleaners	poultry feeders, permanent
cattle feeders, permanent	poultry nests, permanent
cement	pruning tools
chain saws	pumps for household or lawn use
cleaning brushes	radios, unless a replacement part for exempt machinery
cleansing agents and materials	refrigerators for home use
computers (including laptop), for personal use	repair tools
computer software	road maintenance equipment
construction tools	road scraper
concrete	roofing
conveyors, permanent	sanders
cow ties, permanent	scrapers
ear tags	screwdrivers
fence, posts, wire, permanent	shingles
field toilets	shovels
fire prevention equipment	silos
freon	snow fence unless portable and used directly in dairy and livestock production
fuel additives	snow plows and snow equipment
fuel tanks and pumps	space heaters, permanent
garden hoses and rakes	specialized flooring, permanent
glass	sprinklers, permanent
grain bins and tanks, permanent*	stalls, permanent
grease	staples
grease guns	stanchions, permanent
hammers	storage tanks
hog rings	tarps
hydraulic fluids	tiling machinery and equipment
hypodermic syringes, disposable	tractors, garden
lamps	welders
lanterns	wheel barrows
light bulbs (for household use)	wrenches

*The buyer of building materials is responsible for paying sales tax or use tax on those materials, including materials to construct grain bins. The buyer is the person who pays the vendor.

This rule is intended to implement Iowa Code subsections 423.3(6), 423.3(8) and 423.3(11).
[ARC 7870B, IAB 6/17/09, effective 7/22/09; ARC 0466C, IAB 11/28/12, effective 1/2/13]

[Filed ARC 7870B (Notice ARC 7725B, IAB 4/22/09), IAB 6/17/09, effective 7/22/09]

[Filed ARC 0466C (Notice ARC 0379C, IAB 10/3/12), IAB 11/28/12, effective 1/2/13]

CHAPTER 239
LOCAL OPTION SALES TAX URBAN RENEWAL PROJECTS

701—239.1(423B) Urban renewal project. Only after the county board of supervisors from each county where the urban renewal area from which local option sales and services revenues are to be collected and used to fund urban renewal projects adopts a resolution approving the collection and use of local sales and services tax revenue for urban renewal projects may an eligible city by ordinance of the city council provide for the use of a designated amount of the increased local sales and services tax revenues collected under this chapter which are attributable to retail establishments in an urban renewal area to fund urban renewal projects located in the urban renewal area. The designated amount to be used to fund urban renewal projects may be all or a portion of such increased revenues, subject to the limitations imposed by the resolution adopted by the county board, or boards, of supervisors. This rule applies to any urban renewal project to be funded by a city's collection and use of local option sales and services tax revenues on or after July 1, 2012.

[ARC 7666B, IAB 4/8/09, effective 5/13/09; ARC 0468C, IAB 11/28/12, effective 1/2/13]

701—239.2(423B) Definitions. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

“Base year” means the fiscal year during which the ordinance is adopted that provides for funding of an urban renewal project by a designated amount of the increased sales and services tax revenues, as referenced in 239.1(423B).

“Eligible city” means:

1. A city in which a local sales and services tax imposed by the county applies; or
2. A city whose corporate boundaries include areas of two counties that may impose by ordinance of their city councils a local sales and services tax if all of the following apply:
 - At least 85 percent of the residents of the city live in one county.
 - The county in which at least 85 percent of the city residents reside has held an election on the question of the imposition of a local sales and services tax and a majority of those voting on the question in the city favored its imposition.
 - The city has entered into an agreement on the distribution of the sales and services tax revenues collected from the area where the city tax is imposed with the county where such area is located, and in which an urban renewal area has been designated.

“Local sales and services tax” means the local tax imposed by a jurisdiction pursuant to an election authorized by Iowa Code section 423B.1.

“Retail establishment” means a business required to obtain a sales tax permit as required by Iowa Code section 423.36.

“Retail properties” means an area of property in which more than one retail establishment is located.

“Urban renewal area” means a slum area, blighted area, economic development area, or a combination of such areas, which the local governing body designates as appropriate for an urban renewal project as allowed under Iowa Code chapter 403.

“Urban renewal project” may include undertakings and activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, may include the designation and development of an economic development area in an urban renewal area, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal program as allowed under Iowa Code chapter 403.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.3(423B) Establishing sales and revenue growth. For purposes of establishing the sales amount in the base year and the revenue growth in subsequent fiscal years, the department will calculate sales made by retail establishments located within the urban renewal area.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.4(423B) Requirements for cities adopting an ordinance.

239.4(1) Within at least 90 days following the adoption of an ordinance, an eligible city must notify the director of the department of revenue of its intent to pursue funding for an urban renewal project based upon the increase in local sales and services tax revenue. The notification must include the following information:

- a.* Effective July 1, 2012, a copy of the resolution of the board of supervisors from each county where the urban renewal area from which local sales and services tax revenues are to be collected approving the collection and use of local sales and services tax;
- b.* A copy of the urban renewal plan and the resolution adopting the city's urban renewal plan;
- c.* A copy of the adopted ordinance, including:
 - (1) The current and original, if applicable, purpose or purposes for which the local option sales and services tax was enacted; and
 - (2) The amount and proportion of revenue that will be redistributed from each current revenue purpose to fund urban renewal within the urban renewal area;
- d.* The legal description of the urban renewal area covered by the ordinance;
- e.* A map showing the geographic boundaries of the urban renewal area; and
- f.* A geographic information system boundary file, if available, showing the geographic boundaries of the urban renewal area.

239.4(2) Each urban renewal area must have its own separate ordinance, and the department shall be notified separately for each urban renewal area. Notification shall be mailed or otherwise submitted to: Director, Iowa Department of Revenue, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319.

239.4(3) Each urban renewal area must have its own separate resolution of the board of supervisors from each county from which local option sales and services tax revenues will be collected and used for urban renewal projects located within the urban renewal area.

[ARC 7666B, IAB 4/8/09, effective 5/13/09; ARC 0468C, IAB 11/28/12, effective 1/2/13]

701—239.5(423B) Identification of retail establishments. The eligible city shall assist the department of revenue in identifying retail establishments in the urban renewal area that are collecting the local sales and services tax. The department of revenue will identify sales tax permit holders within the urban renewal area using the geographic information system boundary file, if available, provided to the department. If no boundary file is provided, the department will rely upon the map submitted by the eligible city. If any of the urban renewal area boundaries submitted are street centerlines, the information provided to the department shall indicate whether only retail establishments within the bounded area should be considered part of the urban renewal area, or if in addition to the retail establishments within the bounded area, retail establishments immediately adjacent to the bounded area should also be included.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.6(423B) Calculation of base year taxable sales amount. The base year taxable sales and services amount will be the total taxable sales and services subject to the local sales and services tax that are made by retail establishments within the urban renewal area during the base year. Taxable sales of tangible personal property and services that are subject to the local sales and services tax that are made by retail establishments or service providers located within the urban renewal area include only those sales that are sourced to the county in which the urban renewal area is located. Those sales made by retail establishments or service providers located within the urban renewal area that are sourced outside of the county are not subject to the local sales and services tax. For sourcing rules, see Iowa Code section 423.15 and 701—Chapter 223.

[ARC 7666B, IAB 4/8/09, effective 5/13/09; ARC 0468C, IAB 11/28/12, effective 1/2/13]

701—239.7(423B) Determination of tax growth increment amount. The local sales and services tax growth increment amount for the urban renewal area will be computed for each fiscal year following the base year. The annual local option sales and services tax growth increment amount is equal to the current year taxable sales and services subject to the local sales and services tax that are made by retail

establishments located in the urban renewal area minus the corresponding base year taxable sales and services amount for the urban renewal area multiplied by the current local sales and services tax rate applicable to the jurisdiction.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.8(423B) Distribution of tax base and growth increment amounts. The revenues from the local sales and services tax growth amount for urban renewal areas in jurisdictions that have enacted ordinances pursuant to Iowa Code section 423B.10 shall be determined annually and shall be distributed to the city within 120 days following the end of the fiscal year in which they are collected.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.9(423B) Examples. The following examples illustrate the application of the rules in this chapter:

EXAMPLE 1. City A has an urban renewal area that covers a large portion of its downtown. City A and all of its downtown area are located in County B. City A also has in place a 1 percent local sales and services tax. City A's city council wants to enact an ordinance that establishes the urban renewal area as a local sales and services tax increment district which designates 100 percent of the tax growth increment amount to the special city account. Before City A's city council can establish the local sales and services tax district, County B's board of supervisors must adopt a resolution approving City A's local sales and services tax increment district.

The base year taxable sales amount for the urban renewal area will equal the amount of taxable sales made by retail establishments in the urban renewal area for the fiscal year in which the ordinance was adopted. Assume City A's urban renewal area has \$10,050,000 in taxable sales during the 2013-2014 fiscal year.

At the end of the fiscal year following the fiscal year in which the ordinance was adopted (June 30, 2015, in this example), City A's urban renewal area has taxable sales of \$25,000,000. To determine the tax growth increment amount, the department subtracts the base year taxable sales amount from fiscal year two's taxable sales amount then multiplies the remainder by the local sales and services tax rate of 1 percent as follows:

$$\$25,000,000 - \$10,050,000 = \$14,950,000$$

$$\$14,950,000 \times .01 = \$149,500$$

The result is a tax growth increment amount of \$149,500. The department of revenue will deposit \$149,500 into the city's special account no later than November 10 following the end of the fiscal year.

EXAMPLE 2. Same facts as Example 1, but City A's urban renewal area is located in County B and County C. Before City A can enact an ordinance that establishes the urban renewal area as a local sales and services tax increment district, the boards of supervisors from County B and County C must adopt resolutions approving City A's local sales and services tax increment district.

[ARC 7666B, IAB 4/8/09, effective 5/13/09; ARC 0468C, IAB 11/28/12, effective 1/2/13]

701—239.10(423B) Ordinance term. An ordinance under this chapter is repealed when the plan for the urban renewal area expires or terminates or 20 years after adoption of the ordinance, whichever is the earlier.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code sections 423B.1, 423B.7 and 423B.10.

[Filed ARC 7666B (Notice ARC 7531B, IAB 1/28/09), IAB 4/8/09, effective 5/13/09]

[Editorial change: IAC Supplement 4/22/09]

[Filed ARC 0468C (Notice ARC 0378C, IAB 10/3/12), IAB 11/28/12, effective 1/2/13]

SECRETARY OF STATE[721]DIVISION I
ADMINISTRATION

CHAPTER 1

DESCRIPTION OF ORGANIZATION

1.1(17A)	Central organization
1.2(17A)	Corporations
1.3(17A)	Uniform Commercial Code
1.4(17A)	Elections
1.5(17A)	Land office
1.6(17A)	Notaries public
1.7(17A)	Legislative division—enrolled bills
1.8(17A)	Process agent
1.9(17A)	Oaths and bonds
1.10(17A)	Joint governmental agreements
1.11	Reserved
1.12(17A)	Judiciary

CHAPTER 2

RULES OF PRACTICE

2.1(17A)	Forms used
2.2(17A)	Filing complaints
2.3(17A)	Payment for services
2.4(17A)	Examination and preservation of records
2.5(17A)	Telecopier service

CHAPTER 3

ADMINISTRATIVE HEARINGS

3.1(17A)	Scope
3.2(17A)	Definitions
3.3(17A)	General information
3.4(17A)	Commencing the contested case
3.5(17A)	Notice of hearing
3.6(17A)	Contested case hearing procedures
3.7(17A)	Presiding officer
3.8(17A)	Decisions
3.9(17A)	Request for rehearing
3.10(17A)	Judicial review

CHAPTER 4

FORMS

4.1(17A)	Forms and instructions
4.2(17A)	Corporation forms
4.3(17A)	Election forms
4.4(17A)	Uniform Commercial Code forms
4.5(17A)	Verified lien statement forms
4.6(9A,17A)	Athlete agent

CHAPTER 5
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES
(Uniform Rules)

5.1(17A,22)	Definitions
5.3(17A,22)	Requests for access to records
5.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
5.9(17A,22)	Disclosures without the consent of the subject
5.10(17A,22)	Routine use
5.11(17A,22)	Consensual disclosure of confidential records
5.12(17A,22)	Release to subject
5.13(17A,22)	Availability of records
5.14(17A,22)	Personally identifiable information
5.15(17A,22)	Personnel files
5.16(17A,22)	Other groups of records

CHAPTER 6
Reserved

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

7.1(17A)	Applicability
7.2(17A)	Advice on possible rules before notice of proposed rule adoption
7.3(17A)	Public rule-making docket
7.4(17A)	Notice of proposed rule making
7.5(17A)	Public participation
7.6(17A)	Regulatory analysis
7.7(17A,25B)	Fiscal impact statement
7.8(17A)	Time and manner of rule adoption
7.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
7.10(17A)	Exemptions from public rule-making procedures
7.11(17A)	Concise statement of reasons
7.12(17A)	Contents, style, and form of rule
7.13(17A)	Agency rule-making record
7.14(17A)	Filing of rules
7.15(17A)	Effectiveness of rules prior to publication
7.16(17A)	General statements of policy
7.17(17A)	Review by agency of rules

CHAPTER 8
PETITIONS FOR RULE MAKING

8.1(17A)	Petition for rule making
8.2(17A)	Briefs
8.3(17A)	Inquiries
8.4(17A)	Agency consideration

CHAPTER 9
DECLARATORY ORDERS

9.1(17A)	Petition for declaratory order
9.2(17A)	Notice of petition
9.3(17A)	Intervention
9.4(17A)	Briefs

9.5(17A)	Inquiries
9.6(17A)	Service and filing of petitions and other papers
9.7(17A)	Consideration
9.8(17A)	Action on petition
9.9(17A)	Refusal to issue order
9.10(17A)	Contents of declaratory order—effective date
9.11(17A)	Copies of orders
9.12(17A)	Effect of a declaratory order

CHAPTER 10

WAIVER AND VARIANCE RULES

10.1(17A)	Definition
10.2(17A)	Scope of chapter
10.3(17A)	Applicability
10.4(17A)	Criteria for waiver or variance
10.5(17A)	Filing of petition
10.6(17A)	Content of petition
10.7(17A)	Additional information
10.8(17A)	Notice
10.9(17A)	Hearing procedures
10.10(17A)	Ruling
10.11(17A)	Public availability
10.12(17A)	Summary reports
10.13(17A)	Cancellation of a waiver
10.14(17A)	Violations
10.15(17A)	Defense
10.16(17A)	Judicial review

CHAPTERS 11 to 19

Reserved

DIVISION II ELECTIONS

CHAPTER 20

DEPUTY COMMISSIONERS OF ELECTIONS

20.1(47)	Deputy secretary of state and deputy county auditor to act
20.2(47)	County commissioner of elections may appoint special deputies

CHAPTER 21

ELECTION FORMS AND INSTRUCTIONS

DIVISION I

GENERAL ADMINISTRATIVE PROCEDURES

21.1(47)	Emergency election procedures
21.2(47)	Electronic submission of absentee ballot applications and affidavits of candidacy
21.3(49,48A)	Voter identification documents
21.4(49)	Changes of address at the polls
21.5(49)	Eligibility declarations in the election register
21.6	Reserved
21.7(48A)	Election day registration
21.8(48A)	Notice to election day registrant
21.9(49)	“Vote here” signs
21.10(43)	Application for status as a political party
21.11(49)	Statement to provisional voter

21.12(47,53)	Absentee ballot receipt deadline when the United States post office is closed on the deadline for receipt of absentee ballots
21.13(47,50)	Canvass date adjustment when the United States post office is closed on the deadline for receipt of absentee ballots
21.14 to 21.19	Reserved
21.20(62)	Election contest costs
21.21(62)	Limitations
21.22(49)	Photocopied ballot procedures
21.23 and 21.24	Reserved
21.25(50)	Administrative recounts
21.26 to 21.29	Reserved
21.30(49)	Inclusion of annexed territory in city reprecincting and redistricting plans
21.31(275)	School director district maximum allowable deviation between director districts
21.32(372)	City ward maximum allowable deviation between city wards
21.33(49)	Redistricting special election blackout period
21.34 to 21.49	Reserved
21.50(49)	Polling place accessibility standards
21.51 to 21.74	Reserved
21.75(49)	Voting centers for certain elections
21.76 to 21.99	Reserved
21.100(39A,47)	Complaints concerning violations of Iowa Code chapters 39 through 53
21.101 to 21.199	Reserved

DIVISION II
BALLOT PREPARATION

21.200(49)	Constitutional amendments and public measures
21.201(44)	Competing nominations by nonparty political organizations
21.202(43,52)	Form of primary election ballot
21.203(49,52)	Form of general election ballot
21.204(260C)	Tabulating election results by school district for merged area special elections
21.205 to 21.299	Reserved

DIVISION III
ABSENTEE VOTING

21.300(53)	Satellite absentee voting stations
21.301(53)	Absentee ballot requests from voters whose registration records are “inactive”
21.302(48A)	In-person absentee registration
21.303(53)	Mailing absentee ballots
21.304(53)	Absentee ballot requests from voters whose registration records are “pending”
21.305(53)	Confirming commissioner’s receipt of an absentee ballot on election day
21.306 to 21.319	Reserved
21.320(53)	Absentee voting by UOCAVA voters
21.321 to 21.350	Reserved
21.351(53)	Receiving absentee ballots
21.352(53)	Review of returned affidavit envelopes
21.353(53)	Opening the return carrier envelopes
21.354(53)	Review process
21.355(53)	Notice to voter
21.356 to 21.358	Reserved
21.359(53)	Processing absentee ballots before election day
21.360	Reserved
21.361(53)	Rejection of absentee ballot
21.362 to 21.399	Reserved

DIVISION IV
INSTRUCTIONS FOR SPECIFIC ELECTIONS

- 21.400(376) Signature requirements for certain cities
- 21.401(376) Signature requirements in cities with primary or runoff election provisions
- 21.402(372) Filing deadline for charter commission appointment petition
- 21.403(81GA,HF2282) Special elections to fill vacancies in elective city offices for cities that may be required to conduct primary elections
- 21.404(81GA,HF2282) Special elections to fill vacancies in elective city offices for cities without primary election requirements
- 21.405(69) Special elections to fill a vacancy in the office of representative in Congress
- 21.406 to 21.499 Reserved
- 21.500(277) Signature requirements for school director candidates
- 21.501 to 21.600 Reserved
- 21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors or method of election
- 21.602(43) Primary election—nominations by write-in votes for certain offices
- 21.603 to 21.799 Reserved
- 21.800(423B) Local sales and services tax elections
- 21.801(423B) Form of ballot for local option tax elections
- 21.802(423B) Local vehicle tax elections
- 21.803(82GA,HF2663) Revenue purpose statement ballots
- 21.804 to 21.809 Reserved
- 21.810(34A) Referendum on enhanced 911 emergency telephone communication system funding
- 21.811 to 21.819 Reserved
- 21.820(99F) Gambling elections
- 21.821 to 21.829 Reserved
- 21.830(357E) Benefited recreational lake district elections

CHAPTER 22
VOTING SYSTEMS

TESTING AND EXAMINATION OF VOTING EQUIPMENT

- 22.1(52) Definitions for certification of voting equipment
- 22.2(52) Voting system standards
- 22.3(52) Examiners
- 22.4(52) Fees and expenses paid to the examiners
- 22.5(52) Examination of voting equipment—application
- 22.6(52) Review of application by examiners
- 22.7(52) Consultant
- 22.8(52) Contact other users
- 22.9(52) Testing the equipment
- 22.10(52) Test primary election for three political parties
- 22.11(52) Test general election
- 22.12(52) Report of findings
- 22.13(52) Notification
- 22.14(52) Denial of certification
- 22.15(52) Application for reconsideration
- 22.16(52) Appeal
- 22.17(52) Changes to certified voting systems
- 22.18(52) Rescinding certification
- 22.19 to 22.29 Reserved
- 22.30(50,52) Electronic transmission of election results

22.31(52)	Acceptance testing
22.32 to 22.40	Reserved
22.41(52)	Public testing of optical scan systems
22.42(52)	Preparing test decks
22.43(52)	Conducting the public test
22.44 to 22.49	Reserved
22.50(52)	Voting system security
22.51(52)	Memory cards
22.52(52)	Voting equipment malfunction at the polls
22.53 to 22.99	Reserved

OPTICAL SCAN VOTING SYSTEMS

22.100	Reserved
22.101(52)	Definitions
22.102(52)	Optical scan ballots
22.103 to 22.199	Reserved

PRECINCT COUNT SYSTEMS

22.200(52)	Security
22.201(52)	Programming and testing the tabulating devices for precinct count systems
22.202(50)	Unique race and candidate ID numbers for election night results reporting
22.203(50)	Reporting election night results electronically
22.204 to 22.220	Reserved
22.221(52)	Sample ballots and instructions to voters
22.222 to 22.230	Reserved
22.231(52)	Emergency ballot box or bin
22.232(52)	Manner of voting
22.233 to 22.239	Reserved
22.240(52)	Results
22.241(52)	Electronic transmission of election results
22.242 to 22.249	Reserved
22.250(52)	Absentee voting instructions
22.251 to 22.259	Reserved
22.260(52)	Specific precinct count systems
22.261(52)	Election Systems & Software Model 100—preparation and use in elections
22.262(52)	Premier Election Solutions' AccuVote OS and AccuVote OSX precinct count devices
22.263(52)	AutoMARK Voter Assist Terminal (VAT)
22.264(52)	Unisyn OpenElect OVO unit—preparation and use in elections
22.265(52)	Unisyn OpenElect OVI unit
22.266 to 22.339	Reserved

OPTICAL SCAN VOTING SYSTEM USED FOR ABSENTEE AND SPECIAL VOTERS PRECINCT

22.340(52)	Processing
22.341(52)	Reporting results from absentee ballots and provisional ballots
22.342(52)	Tally list for absentee and special voters precinct
22.343(39A,53)	Counting absentee ballots on the day before the general election

CHAPTER 23

VOTER REGISTRATION IN STATE AGENCIES

23.1(48A)	Definitions
23.2(48A)	Registration forms
23.3(48A)	Declination forms
23.4(48A)	Electronic declination records

- 23.5(48A) Retention and storage of declination forms
- 23.6(48A) Distribution of voter registration forms
- 23.7(48A) Applications, recertifications, renewals and changes of address received from applicant representatives
- 23.8(48A) Recertification and renewal applications
- 23.9(48A) Change of address notices
- 23.10(48A) Ineligible applicants
- 23.11(48A) Other voter registration agencies

CHAPTER 24

UNOFFICIAL CANVASS OF VOTES

- 24.1(47) Unofficial canvass
- 24.2(47) Duties of the county commissioner of elections
- 24.3(47) Duties of the state commissioner of elections

CHAPTER 25

ELECTION ADMINISTRATION—ADMINISTRATIVE COMPLAINT PROCEDURE

- 25.1(17A,39A,47) General provisions
- 25.2(17A,39A,47) Form of complaint
- 25.3(17A,39A,47) Filing, service, and initial review of complaint
- 25.4(17A,39A,47) Notice of proceedings
- 25.5(17A,39A,47) Informal settlement
- 25.6(17A,39A,47) Answer
- 25.7(17A,39A,47) Presiding officer
- 25.8(17A,39A,47) Proceedings based upon written submissions
- 25.9(17A,39A,47) Written decisions, available remedies
- 25.10(17A,39A,47) Hearings
- 25.11(17A,39A,47) Time requirements
- 25.12(17A,39A,47) Waiver of procedures
- 25.13(17A,39A,47) Telephone and electronic proceedings
- 25.14(17A,39A,47) Disqualification
- 25.15(17A,39A,47) Consolidation—severance
- 25.16(17A,39A,47) Service and filing of pleadings and other papers
- 25.17(17A) Discovery
- 25.18(17A) Issuance of subpoenas in a complaint proceeding
- 25.19(17A) Motions
- 25.20(17A) Continuances
- 25.21(17A) Withdrawals
- 25.22(17A) Intervention
- 25.23(17A) Hearing procedures
- 25.24(17A) Evidence
- 25.25(17A) Default
- 25.26(17A) Ex parte communication
- 25.27(17A) Recording costs
- 25.28(17A) Final decisions, publication and party notification
- 25.29(17A) Interlocutory appeals
- 25.30(17A) Appeals and review
- 25.31(17A) Applications for rehearing
- 25.32(17A) Stays of orders
- 25.33(17A) No factual dispute complaint proceedings
- 25.34(17A) Alternate dispute resolution
- 25.35(17A) Judicial review

CHAPTER 26 COUNTING VOTES

PART I—GENERAL PROVISIONS

26.1(49)	Definitions
26.2(49)	Counting votes on election day
26.3(50)	Reporting overvotes and undervotes
26.4(50)	Absentee and special voters precinct
26.5 to 26.9	Reserved

PART II—OPTICAL SCAN VOTING SYSTEMS

26.10(50)	Systems affected
26.11(50)	Examples used
26.12(50)	Wrong ballots
26.13(50)	Ballot properly marked by the voter
26.14(50)	Ballots with identifying marks
26.15(49)	Voter's choice
26.16(49)	Determination of voter's choice
26.17(49)	Marks not counted
26.18(49)	Acceptable marks
26.19(49)	Counting straight party or organization votes
26.20(49)	Write-in votes
26.21(49)	Corrections by voter
26.22 to 26.49	Reserved

PART III—PAPER BALLOTS

26.50(49)	Standards
26.51(49)	Write-in votes
26.52 to 26.59	Reserved

PART IV—VOTING MACHINES

26.60 to 26.99	Reserved
----------------	----------

PART V—RECOUNTS

26.100(50)	Requester
26.101(50)	Recounts for candidates who run as a team
26.102(50)	Bond
26.103(50)	Recount board
26.104(50)	Responsibilities of the recount board
26.105(50)	Duties of commissioner and commissioner's staff
26.106(50)	Access to meeting
26.107(50)	Report of the recount board

CHAPTER 27 HELP AMERICA VOTE ACT GRANTS

27.1(47,80GA,SF2298)	Purpose
27.2(47,80GA,SF2298)	Definitions
27.3(47,80GA,SF2298)	Eligibility and requirements
27.4(47,80GA,SF2298)	Application process
27.5(47,80GA,SF2298)	Application contents
27.6(47,80GA,SF2298)	Application review
27.7(47,80GA,SF2298)	Award process
27.8(47,80GA,SF2298)	Reports
27.9(47,80GA,SF2298)	Access to records

CHAPTER 28

VOTER REGISTRATION FILE (I-VOTERS) MANAGEMENT

- 28.1(47,48A) State registrar's responsibility
- 28.2(48A) Access and fees
- 28.3(48A) Duplicate and multiple voter registration record deletion process
- 28.4(48A) Cancellations and restorations of voter registration due to felony conviction
- 28.5(47,48A) Noncitizen registered voter identification and removal process

CHAPTER 29

Reserved

DIVISION III

UNIFORM COMMERCIAL CODE

CHAPTER 30

UNIFORM COMMERCIAL CODE

- 30.1(554) General provisions
- 30.2(554) Acceptance and refusal of documents
- 30.3(554) UCC information management system
- 30.4(554) Filing and data entry procedures
- 30.5(554) Search requests and reports
- 30.6(554) Other notices of liens

CHAPTER 31

REGISTRATION OF POSTSECONDARY SCHOOLS

- 31.1(80GA,HF2559) Postsecondary registration fees

CHAPTERS 32 to 39

Reserved

DIVISION IV

CORPORATIONS

CHAPTER 40

CORPORATIONS

- 40.1(490,499,504A) Filing of documents
- 40.2(490,499,504A) Reinstatement of corporations
- 40.3(487,490,504A) Names distinguishable upon corporate records
- 40.4(490,491,496C,497,498,499,504A) Payment and refund of fees
- 40.5(491,496A,499,504A,548) Document to county recorder
- 40.6(548) Registration and protection of marks
- 40.7(80GA,SF2274) Revised nonprofit corporation Act fees
- 40.8(488,489,490) Biennial reports
- 40.9(490) Online filing requirements

CHAPTER 41

Reserved

CHAPTER 42

ATHLETE AGENT REGISTRATION

- 42.1(9A,17A) Fees
- 42.2(9A,17A) Surety bond
- 42.3(9A,17A) Agent contract
- 42.4(9A,17A) General information

CHAPTER 43
NOTARIAL ACTS

- 43.1(9E) Certificate of notarial acts
- 43.2(9E) Short forms
- 43.3(9E) Notarial acts in other jurisdictions of the United States
- 43.4(9E) Notarial acts under federal authority
- 43.5(9E) Foreign notarial acts
- 43.6(9E) Revocation of notary appointment

CHAPTER 44
Reserved

CHAPTER 45
MECHANICS' NOTICE AND LIEN REGISTRY

- 45.1(572) General provisions
- 45.2(572) Creation of mechanics' notice and lien registry
- 45.3(572) Administrator identification
- 45.4(572) Posting of notice of commencement of work
- 45.5(572) Posting of preliminary notice
- 45.6(572) Posting of mechanic's lien
- 45.7(572) Forfeiture and cancellation of mechanics' liens
- 45.8(572) Discharge of mechanic's lien by submission of a bond
- 45.9(572) Action against general contractor or owner-builder to recover amount due
- 45.10(572) Delay by administrator
- 45.11(572) Nondisclosure of MNLR information
- 45.12(572) Obligation to update information
- 45.13(572) Fees and services
- 45.14(572) Grounds for refusal of a posting or submission
- 45.15(572) Posting of a filing office statement, correction statement, or withdrawal statement
- 45.16(572) Assignment of date and time stamp and MNLR number
- 45.17(572) Penalties
- 45.18(572) Preservation and access by the public

CHAPTER 44

REGISTRATION OF WASTE TIRE HAULERS

Rescinded IAB 1/18/06, effective 2/22/06; see 567—Chapter 116

CHAPTER 45
MECHANICS' NOTICE AND LIEN REGISTRY

721—45.1(572) General provisions.

45.1(1) Scope. This chapter applies to the creation and administration of a mechanics' notice and lien registry under Iowa Code chapter 572. All mechanics' liens filed on or after January 1, 2013, must be posted in the office of the administrator in accordance with these rules. The residential notice provisions of these rules apply to labor performed and materials supplied on or after January 1, 2013.

Mechanics' liens filed prior to January 1, 2013, shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

Rules 721—45.4(572) and 721—45.5(572) apply only to residential construction. All other rules in this chapter apply to both residential and commercial construction.

45.1(2) Definitions. The following terms shall have the respective meanings provided in this rule.

"Administrator" means the secretary of state.

"Building" shall be construed as if followed by the words "erection, or other improvement upon land."

"Claimant" means a person entitled to a lien under Iowa Code chapter 572.

"Filing office" means the office of the secretary of state. The address of the office is Lucas State Office Building, First Floor, 321 East 12th Street, Des Moines, Iowa 50319.

"General contractor" means every person who does work or furnishes materials by contract, express or implied, with an owner. "General contractor" does not include a person who does work or furnishes materials on contract with an owner-builder.

"Index" means the categories by which a posting may be searched and retrieved.

"Labor" means labor completed by the claimant.

"Material," in addition to its ordinary meaning, includes machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tile and the use of forms, accessories, and equipment furnished by the claimant.

"Mechanics' notice and lien registry" or *"MNLR"* means a centralized computer database maintained on the Internet by the administrator that provides a central repository for the submission and management of preliminary notices, notices of commencement of work on residential construction properties, and mechanics' liens on all construction properties.

"Mechanics' notice and lien registry number" or *"MNLR number"* means a number provided by the administrator for all construction properties posted to the mechanics' notice and lien registry.

"Owner" means the legal or equitable titleholder of record.

"Owner-builder" means the legal or equitable titleholder of record who furnishes material for or performs labor upon a building, erection, or other improvement, or who contracts with a subcontractor to furnish material for or perform labor upon a building, erection, or other improvement and who offers or intends to offer to sell the owner-builder's property without occupying or using the structures, properties, developments, or improvements for a period of more than one year from the date the structure, property, development, or improvement is substantially completed or abandoned.

"Owner notice" means notification to the owner.

"Post" or *"posting"* means to enter notices, liens and any other document on the mechanics' notice and lien registry.

"Residential construction" means construction on single-family or two-family dwellings occupied or used, or intended to be occupied or used, primarily for residential purposes, and includes real property pursuant to Iowa Code chapter 499B.

"Subcontractor" means every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner. "Subcontractor" shall include those persons having contracts directly with an owner-builder.

"Submit" or *"submission"* means to mail, fax, or deliver by person or courier a paper document.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.2(572) Creation of mechanics' notice and lien registry. The administrator shall create and administer a mechanics' notice and lien registry, hereafter known as the MNLR.

45.2(1) Access to MNLR by the general public. The MNLR shall be accessible to the general public through the administrator's Web site at www.sos.iowa.gov/mnlnr. A notice, lien or any other document posted is immediately accessible to the general public.

45.2(2) MNLR searchable by index. The MNLR shall be searchable by the following indexes:

- a. Owner name.
- b. General contractor name.
- c. MNLR number.
- d. Property address.
- e. Legal description.
- f. Tax parcel identification number.
- g. County.

45.2(3) Acknowledgment of receipt. The administrator shall provide a receipt acknowledging submission of a notice if the submission of information is by U.S. mail, facsimile transmission, personal delivery or courier delivery, or acknowledging submission of a lien if the submission of information is by U.S. mail. The acknowledgment shall be sent to the e-mail address provided by the person submitting the required information to post a notice or lien.

45.2(4) MNLR user registration. To post information on the MNLR Internet Web site, the person must register as a user on the MNLR. Procedures for MNLR user registration and allowed use of the MNLR shall be posted on the administrator's Web site.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.3(572) Administrator identification. In addition to the promulgation of these rules, the administrator will disseminate the administrator's location, mailing address, telephone and facsimile numbers and the administrator's Internet and other electronic "addresses" through usual and customary means.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.4(572) Posting of notice of commencement of work.

45.4(1) Posting by general contractor. A general contractor for residential construction shall post a notice of commencement of work to the MNLR within ten days of commencement of work, or the general contractor is not entitled to a lien or remedies provided in Iowa Code chapter 572.

45.4(2) Information in notice of commencement of work. The information provided shall, at a minimum, include:

- a. The name and address of the owner.
- b. The name, address and telephone number of the general contractor or owner-builder.
- c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- d. The legal description of the property.
- e. The date work commenced.
- f. The tax parcel identification number.
- g. The county in which the building, land, or improvement to be charged with the lien is situated.
- h. The e-mail address of the person posting or submitting the notice of commencement of work or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of this person.

45.4(3) Commencement of work owner notice. At the time a notice of commencement of work is posted on the MNLR, the administrator shall mail a written owner notice to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner.

- a. The owner notice shall be in boldface type and of a minimum size of ten points and contain the following language:

“Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics’ notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or lien to the mechanics’ notice and lien registry, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the mechanics’ notice and lien registry internet website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the mechanics’ notice and lien registry is posted on the internet website of the mechanics’ notice and lien registry.”

b. The owner notice shall include the MNLR Internet Web site address and MNLR toll-free telephone number.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.5(572) Posting of preliminary notice.

45.5(1) *Posting by subcontractor.*

a. A subcontractor for residential construction who has provided or will provide labor or furnish material for residential construction shall post a preliminary notice to the MNLR, or the subcontractor is not entitled to a lien or remedies provided in Iowa Code chapter 572.

b. Prior to the posting of a preliminary notice, a notice of commencement of work must be posted on the MNLR. If the general contractor or owner-builder has not posted a notice of commencement of work on the MNLR within ten days of commencement of work on the property, then the subcontractor may post a notice of commencement of work on the MNLR prior to posting the preliminary notice. In order to post a notice of commencement of work on the MNLR, the subcontractor must comply with subrule 45.4(2).

45.5(2) *Contents of preliminary notice.* The information provided by the subcontractor shall, at a minimum, include:

- a. The name of the owner.
- b. The MNLR number.
- c. The name, address and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d. The name and address of the person who contracted with the claimant for the furnishing of the labor, service, equipment, or material.
- e. The name of the general contractor or owner-builder under which the claimant is performing or will perform the work.
- f. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- g. The legal description of the property.
- h. The date the material or materials were first furnished or the labor was first performed.
- i. The tax parcel identification number.
- j. The county in which the building, land, or improvement to be charged with the lien is situated.
- k. The e-mail address of the subcontractor or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of the subcontractor.

45.5(3) *Preliminary notice owner notice.* At the time that a preliminary notice is posted on the MNLR, the administrator shall mail a written owner notice, as provided in paragraphs 45.4(3) “a” and 45.4(3) “b,” to the owner’s address. An owner-builder shall not receive an owner notice.

45.5(4) *Proof of service of owner notice.* The administrator shall post a proof of service on the MNLR. The subcontractor may obtain a copy by downloading the proof of service from the record of postings by MNLR number.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.6(572) Posting of mechanic's lien.

45.6(1) *Posting of mechanic's lien.* A person must post on the MNLR a verified statement of account of the demand due the person, after allowing all credits.

45.6(2) *Contents of the statement of account.* The verified statement of account provided by the person shall include:

- a. The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.
- b. The legal description of the property to be charged with the lien.
- c. The name and last-known mailing address of the owner of the property.
- d. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- e. The tax parcel identification number.

45.6(3) *Mechanic's lien owner notice.* At the time that a lien is posted on the MNLR, the administrator shall mail a copy of the lien to the owner's address. The owner notice shall include the MNLR Internet Web site address and MNLR toll-free telephone number.

45.6(4) *Identification of lien county.* A lien posted to the MNLR under this rule shall be limited to the county in which the building, land, or improvement to be charged with the lien is situated. The county identified on the MNLR Web site at the time of posting the required notices in rules 721—45.4(572) and 721—45.5(572) shall be the only county in which the building, land, or improvement may be charged with a mechanic's lien.

45.6(5) *Lien information contained in posting.* The liens posted on the MNLR shall contain the following items:

- a. The name of the person by whom posted.
- b. The date and hour of posting.
- c. The amount thereof.
- d. The name of the person against whom the lien is posted.
- e. The legal description of the property to be charged.
- f. The tax parcel identification number of the property to be charged.
- g. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

45.6(6) *Additional information for posting of a mechanic's lien for commercial property.* The person posting the mechanic's lien for a commercial property must register as a user with the MNLR and must provide the following additional information:

- a. The name and mailing address of the owner.
- b. The name, address and telephone number of the general contractor or owner-builder.
- c. The county in which the building, land, or improvement to be charged with the lien is situated.
- d. The e-mail address of the person posting or submitting the mechanic's lien or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of the person posting the lien.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.7(572) Forfeiture and cancellation of mechanics' liens.

45.7(1) *Demand for acknowledgment of satisfaction of claim.*

a. When a mechanic's lien is satisfied by payment of the claim, the claimant may post acknowledgment of that satisfaction on the MNLR.

b. If the claimant fails to acknowledge satisfaction by posting, the owner, general contractor or owner-builder may personally serve the claimant with a written demand that the claimant post the acknowledgment of satisfaction on the MNLR. If the claimant fails to post the acknowledgment of

satisfaction within 30 days of when the demand is served, the mechanic's lien is forfeited and canceled upon the posting of a copy of the demand and the posting of endorsed proofs of service.

45.7(2) *Posting of demand to commence action to enforce the lien.* The owner may serve a written demand on the claimant demanding that the claimant commence action to enforce the lien. If the claimant fails to commence action to enforce the lien within 30 days of receipt of the written demand, the owner may post a copy of the demand to commence action and the endorsed proofs of service. Completion of these requirements provides constructive notice to all parties that the lien has been canceled.

45.7(3) *Notice to both parties.* At the time that a demand is posted on the MNLR, the administrator shall mail a date- and time-stamped copy of the demand to both parties.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.8(572) Discharge of mechanic's lien by submission of a bond.

45.8(1) *Submission or posting of a bond.* Any person may submit a bond to the administrator or post a bond to discharge a mechanic's lien. The submitter of the bond shall provide the MNLR number so that the administrator can determine to which lien to apply the bond.

45.8(2) *Acceptance of a bond.* The administrator may accept a bond in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties authorized to issue surety bonds in this state.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.9(572) Action against general contractor or owner-builder to recover amount due.

45.9(1) *Giving of a bond.* The general contractor or owner-builder may post or submit a surety bond to the administrator for purposes of preventing exemplary damages under Iowa Code section 572.30. The bond shall be in an amount not less than the amount necessary to satisfy the nonpayment for which the notice has been given, and in a form set forth by Iowa Code section 572.30.

45.9(2) *Acceptance of a bond.* The administrator shall accept a bond in an amount and form set forth by Iowa Code section 572.30.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.10(572) Delay by administrator. Delay by the administrator beyond a time limit prescribed in these rules is excused if:

1. The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the administrator.

2. The administrator exercises reasonable diligence under these circumstances.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.11(572) Nondisclosure of MNLR information. The following information, provided in compliance with this chapter, shall not be viewed as a public record under Iowa Code chapter 22 and shall not be disclosed by the administrator:

1. An e-mail address.

2. MNLR user account or payment information.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.12(572) Obligation to update information. The administrator may use e-mail for official correspondence with a registered user, except when law requires delivery by U.S. mail. If the registered user wants to receive timely notice by the administrator, it is the obligation of the registered user to update the user's contact information on the MNLR.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.13(572) Fees and services.

45.13(1) *Fee for posting and mailing.* The following fees shall be charged for posting on the MNLR and for the mailing of notices:

a. The fee for posting a notice of commencement of work using the Internet Web site is \$7. The fee for posting a notice of commencement of work by submitting the notice to the administrator by U.S. mail, facsimile, personal delivery or courier delivery is \$10.

b. The fee for posting a preliminary notice on the MNLR using the Internet Web site is \$7. The fee for posting a preliminary notice by submitting the notice to the administrator by U.S. mail, facsimile, personal delivery or courier delivery is \$10.

c. The fee for posting a mechanic's lien using the Internet Web site is \$30. The fee for posting a mechanic's lien by submitting the lien to the administrator by U.S. mail is \$40.

d. The fee for mailing a copy of the demand for acknowledgment is \$5 per party's mailing address.

e. The fee for mailing a copy of the demand to commence action is \$5 per party's mailing address.

f. The fee for posting a correction statement is \$5 to mail a new owner notice.

45.13(2) *Searching the MNLR.* A search of the MNLR by index list is available at no cost via the administrator's Web site. Any person may search the MNLR without registering as an MNLR user. When a search of the MNLR is performed by the administrator, the following fees apply:

a. The fee for an MNLR search request is \$5. The search will only be performed if an MNLR number is provided by the requester. Other than by MNLR number, no other search will be performed by the administrator. The request may be made by verbal communication, on paper, by facsimile, or by e-mail. The search provides the requester with a copy of the summary of postings for the provided MNLR number, and an estimate of the cost to obtain a paper copy of the documents listed on the summary of postings.

b. The fee for a paper copy of a document posted on the MNLR is:

(1) \$1 per page, delivered by U.S. mail.

(2) \$2 per page, delivered by facsimile machine.

Documents will not be delivered via e-mail.

45.13(3) *Public records services.* Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following fees shall be charged for obtaining copies of MNLR documents and copies of data from the MNLR information management system, as generated and provided by the administrator, by the following methods:

a. Paper copies of individual documents. The requester must provide the MNLR document number.

(1) U.S. mail delivery — \$1 per page.

(2) Facsimile delivery — \$2 per page.

Documents will not be delivered via e-mail.

b. Data download.

(1) Subscription service that allows a subscriber to electronically receive data fields via a spreadsheet format (unlimited downloads): \$500 annual fee, renewable January 1 each year. For subscribers, bulk copies of PDF images of postings may be purchased for 4 cents per document, delivered to the subscriber on a computer disk.

(2) One-time full extract of data for a calendar year via download: up to \$1,000 per year. In addition to the purchase of the download, a requester for full data extract may purchase a copy of all PDF images of postings for the calendar year for 4 cents per document, delivered to the requester on a computer disk.

45.13(4) *Methods of payment.* Fees for posting, mailing, and searching rendered by the administrator may be paid to the administrator by the following methods:

a. Check. Checks made payable to administrator, including checks in an amount to be filled in by the administrator but not to exceed a particular amount, will be accepted for payment if they are cashier's checks or certified checks drawn on a bank acceptable to the administrator or if the drawer is acceptable to the administrator.

b. Electronic funds transfer. The administrator may accept payment via electronic funds transfer under National Automated Clearing Housing Association (NACHA) rules from persons who have entered into appropriate NACHA-approved arrangements for such transfers and who authorize the relevant transfer pursuant to such arrangements and rules.

c. Accounts receivable. Payment for services shall be in accordance with rule 721—2.3(17A).

d. Credit card. The administrator may accept payments made by credit card issued by an approved credit card issuer.

45.13(5) Receipt of required fees verified.

a. A receipt of the required fee must be verified by the administrator to post to the MNLR. The administrator may reject a submission or posting; or post a withdrawal statement on the MNLR if the administrator is notified of insufficient funds, a disputed credit card charge, or other failure. A posting rejected for insufficient funds shall be identified as such by the administrator on the MNLR. If a posting is withdrawn by the administrator for failure to pay the required fee, the MNLR document number will be unavailable to select for posting a mechanic's lien; the original posting with funds verified may be reposted by the MNLR user.

b. In order for the administrator to provide a requested copy of an MNLR search or public record, receipt of the required fee must be verified by the administrator.

45.13(6) Overpayment and underpayment policies.

a. The administrator shall refund the amount of an overpayment exceeding \$15, less the administrative cost of processing a refund.

b. Upon receipt of a submission with an insufficient fee, the administrator shall return the document as provided in rule 721—45.14(572). A refund of partial payment may be included with the document or delivered under separate cover.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.14(572) Grounds for refusal of a posting or submission. A posting or submission may be refused by the administrator on the following grounds:

1. A posting or submission does not provide complete information as required under subrule 45.4(2) for a notice of commencement of work, subrule 45.5(2) for a preliminary notice, subrules 45.6(2) and 45.6(5) for a mechanic's lien, or subrules 45.6(2), 45.6(5) and 45.6(6) for a mechanic's lien for a commercial property;

2. A submission does not include an MNLR number, except for a submission for which the form provided by the administrator does not require an MNLR number;

3. The required fee is not paid for a submission or posting or the fee paid for the submission or posting is insufficient;

4. A submission is not on a form provided by the administrator for the purpose of performing the requested posting; or

5. A submission is not legible, as determined by the administrator.

Additional grounds for the administrator's refusal to accept an MNLR document for posting may be established by policy. The policy shall be noticed to the public by the posting of the policy on the MNLR Web site.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.15(572) Posting of a filing office statement, correction statement, or withdrawal statement.

45.15(1) Filing office statement. The administrator may post a filing office statement to correct information that was incorrectly transcribed from a paper submission.

45.15(2) Correction statement. A correction statement for a commencement of work or a preliminary notice is an electronic posting by a registered MNLR user. A correction statement does not allow for a change in the county where the building, land or improvement to be charged with the lien is situated; in the date of the commencement of work; or in the date that material was first furnished or labor was first performed by the subcontractor.

45.15(3) Withdrawal statement.

a. A withdrawal statement of an original posting of a notice or lien shall be made by the general contractor, owner-builder, or subcontractor, or party authorized on behalf of the original party, who originally posted the record on the MNLR. The MNLR number is required at the time the withdrawal statement is posted to identify the posting to be withdrawn.

b. A withdrawal statement of an original posting of a notice, lien or other document may be made by the administrator as provided in subrule 45.13(5).

45.15(4) *Notice of filing office statement, correction statement, or withdrawal statement to registered users.* At the time of the posting of a filing office statement, a correction statement, or a withdrawal statement, a notice will be sent by e-mail to all registered users, except the administrator, who have posted to the MNLR number.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.16(572) Assignment of date and time stamp and MNLR number.

45.16(1) *Method and time of posting.*

a. For a notice of commencement of work or preliminary notice, the posting shall be date- and time-stamped as follows:

(1) If posted electronically on the MNLR, the time of posting shall be upon posting of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail to the filing office, the administrator shall post to the MNLR within three business days of receipt.

(3) If the required information and fee are submitted by facsimile transmission to the filing office, the administrator shall post to the MNLR within three business days of receipt.

(4) If the required information and fee are submitted by personal delivery or courier delivery to the filing office's street address, the administrator shall post to the MNLR within three business days of receipt.

b. For a mechanic's lien, demand for acknowledgement of satisfaction of claim, demand to commence action to enforce the lien, bond to discharge a mechanic's lien, or bond to prevent exemplary damages, the posting will be date- and time-stamped as follows:

(1) If posted electronically on the MNLR, the time of posting shall be upon submission of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail to the filing office, the administrator shall post to the MNLR within three business days of receipt.

c. For a filing office statement, a correction statement, or a withdrawal statement, the posting shall be date- and time-stamped at the time the statement is posted electronically on the MNLR by the registered MNLR user.

45.16(2) *Assignment of an MNLR number.* The administrator shall assign an MNLR number at the time that a notice of commencement of work or a mechanic's lien on a commercial property is posted on the MNLR.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.17(572) Penalties. Submission of fictitious, forged, or false information to the MNLR by a general contractor, owner-builder or subcontractor is a civil offense punishable by a civil penalty of not more than \$750 for each violation or, if the infraction is a repeat offense, a civil penalty not to exceed \$1,000 for each repeat offense.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

721—45.18(572) Preservation and access by the public. This rule relates to the maintenance of archives and the ability of those archives to be searched.

45.18(1) *Paper documents.* Paper documents are scanned into the MNLR. The paper submission is returned to the submitter.

45.18(2) *Archives—data retention.*

a. The MNLR information management system is backed up to magnetic tape every business day.

b. Data in the MNLR information management system is retained for 15 years from the date of commencement of work.

c. Archival searches may be available through arrangements with the administrator in the administrator's sole discretion.

[ARC 0464C, IAB 11/28/12, effective 1/2/13]

These rules are intended to implement Iowa Code chapter 572.

[Filed ARC 0464C (Notice ARC 0339C, IAB 9/19/12), IAB 11/28/12, effective 1/2/13]

TREASURER OF STATE[781]

Editorially transferred from [830] to [781], IAC Supp. 1/28/87

CHAPTER 1**ORGANIZATION AND PROCEDURES**

- 1.1(17A) Treasurer of state
- 1.2(17A) Duties of treasurer
- 1.3(17A) Location of office

CHAPTER 2**PUBLIC RECORDS AND FAIR INFORMATION PRACTICES**

(Uniform Rules)

- 2.1(17A,22) Definitions
- 2.3(17A,22) Requests for access to records
- 2.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record
- 2.9(17A,22) Disclosures without consent of the subject
- 2.10(17A,22) Routine use
- 2.11(17A,22) Consensual disclosure of confidential records
- 2.12(17A,22) Release to the subject
- 2.13(17A,22) Availability of records
- 2.14(17A,22) Personally identifiable information
- 2.15(17A,22) Other groups of records routinely available for public inspection
- 2.16(17A,22) Data processing systems
- 2.17(17A,22) Applicability

CHAPTER 3

Reserved

CHAPTER 4**LINKED INVESTMENTS FOR TOMORROW (LIFT)**

- 4.1(12) Definitions
- 4.2(12) Forms
- 4.3(12) Procedures for submitting and processing a linked investment loan application
- 4.4(12) Qualifications on the certificate of deposit
- 4.5(12) Qualifications on the loan
- 4.6(12) LIFT—small business program

CHAPTER 5

Reserved

CHAPTER 6**COORDINATION OF BONDING ACTIVITIES**

- 6.1(12) Scope
- 6.2(12) Definitions
- 6.3(12) Intention to issue obligations
- 6.4(12) Selection of vendors of professional services
- 6.5(12) Exceptions to vendor selection procedure
- 6.6(12) Investment of proceeds
- 6.7(12) Information to be provided to treasurer
- 6.8(12) Costs of vendor selection

CHAPTER 7
REPORTING ON STATE AND LOCAL
GOVERNMENT BONDING ACTIVITIES

- 7.1(12) Scope
- 7.2(12) Definitions
- 7.3(12) Form
- 7.4(12) Filing procedures
- 7.5(12) Who is required to file
- 7.6(12) Publication procedures

CHAPTER 8
ACCEPTING CREDIT CARD PAYMENTS

- 8.1(12) Purpose
- 8.2(12) Definitions
- 8.3(12) State department requirements for accepting credit card payments
- 8.4(12) Procedures for administering the credit card receipt process
- 8.5(12) Adjustments for convenience fees

CHAPTER 9
UNCLAIMED PROPERTY

- 9.1(556) Purpose
- 9.2(556) Forms
- 9.3(556) Definitions
- 9.4(556) Dormancy fees and related charges
- 9.5(556) Reporting and delivery of safe deposit box contents
- 9.6(556) Reporting of individual retirement accounts (IRAs) and other retirement accounts
- 9.7(556) Reporting of certificates of deposit and other time deposits
- 9.8(556) Indication of interest by an owner in a certificate of deposit or other time deposit
- 9.9(556) Reporting of retained asset accounts
- 9.10(556) Information required to be included in report
- 9.11(556) Early reporting of unclaimed property
- 9.12(556) Due diligence
- 9.13(556) Reporting aggregate amounts to the division
- 9.14(556) Regulation of finders
- 9.15(556) Disposition of safe deposit box contents
- 9.16(556) Filing of owner claims
- 9.17(556) Documentation of claims by individuals
- 9.18(556) Documentation of claims by business entities
- 9.19(556) Certification of entitlement by claimant
- 9.20(556) Claims by holders for owner reimbursements
- 9.21(556) Claims to custodial property under the Iowa UTMA or similar Acts
- 9.22(556) Claimant interest in unclaimed property
- 9.23(556) Approval of claims
- 9.24(556) Payment of claims
- 9.25(556) Surety bonds
- 9.26(556) Examination of holders
- 9.27(556) Estimation
- 9.28(556) Appeal of examination findings
- 9.29(556) Entering into contracts with contract auditors
- 9.30(556) Guidelines

CHAPTER 10

INFORMAL CLAIMS FOR SECOND INJURY FUND

- 10.1(85) Benefits of second injury fund

CHAPTER 11

Reserved

CHAPTER 12

TECHNICAL INVESTMENT INFORMATION AND ASSISTANCE

- 12.1(12) Definitions
12.2(12) Availability of technical investment information

CHAPTER 13

DEPOSIT AND SECURITY OF PUBLIC FUNDS IN BANKS

- 13.1(12C) Scope and transition procedures
13.2(12C) Definitions
13.3(12C) Forms
13.4(12C) Duties and responsibilities of a pledging bank
13.5(12C) Requirements for becoming an approved custodian
13.6(12C) Duties and responsibilities of an approved custodian
13.7(12C) Withdrawals, substitutions, and additions of pledged collateral
13.8(12C) Eligible collateral provisions
13.9(12C) Suspension or termination of approved custodian designation
13.10(12C) Sale or merger of an approved custodian
13.11(12C) Suspension or termination
13.12(12C) Sale or merger of a pledging bank
13.13(12C) Procedures upon default or closing of a bank
13.14(12C) Fees of the treasurer

CHAPTER 14

DEPOSIT AND SECURITY OF PUBLIC FUNDS IN CREDIT UNIONS

- 14.1(12C) Scope and transition
14.2(12C) Definitions
14.3(12C) Forms
14.4(12C) Uninsured public deposits in credit unions
14.5(12C) Securing uninsured public deposits in credit unions using a letter of credit
14.6(12C) Securing public funds in a credit union with a pledge of eligible collateral
14.7(12C) Duties of the approved custodian
14.8(12C) Termination of credit union's federal insurance
14.9(12C) Sale or merger of a credit union
14.10(12C) Procedure upon default

CHAPTER 15

REQUIRED PUBLIC FUNDS CUSTODIAL AGREEMENT PROVISIONS

- 15.1(12B) Scope
15.2(12B) Required provisions for inclusion in public funds custodial agreements
15.3(12B) Optional provisions which public units should consider
15.4(12B) Custodial functions
15.5(12B) Implementation deadline

CHAPTER 16

IOWA EDUCATIONAL SAVINGS PLAN TRUST

- 16.1(12D) Purpose
16.2(12D) Definitions

16.3(12D)	Participation agreement and program description
16.4(12D)	Forms
16.5(12D)	Participant eligibility
16.6(12D)	Beneficiary eligibility
16.7(12D)	Payments and payment schedules
16.8(12D)	Substitution or change of beneficiary
16.9(12D)	Change of participant or account owner
16.10(12D)	Payment of benefits and qualified distributions
16.11(12D)	Withdrawals and cancellation

CHAPTER 17 DECLARATORY ORDERS

17.1(17A)	Petition for declaratory order
17.2(17A)	Notice of petition
17.3(17A)	Intervention
17.4(17A)	Briefs
17.5(17A)	Inquiries
17.6(17A)	Service and filing of petitions and other papers
17.7(17A)	Consideration
17.8(17A)	Action on petition
17.9(17A)	Refusal to issue order
17.10(17A)	Contents of declaratory order—effective date
17.11(17A)	Copies of orders
17.12(17A)	Effect of a declaratory order

CHAPTER 18 AGENCY PROCEDURE FOR RULE MAKING

18.1(17A)	Applicability
18.2(17A)	Advice on possible rules before notice of proposed rule adoption
18.3(17A)	Public rule-making docket
18.4(17A)	Notice of proposed rule making
18.5(17A)	Public participation
18.6(17A)	Regulatory analysis
18.7(17A,25B)	Fiscal impact statement
18.8(17A)	Time and manner of rule adoption
18.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
18.10(17A)	Exemptions from public rule-making procedures
18.11(17A)	Concise statement of reasons
18.12(17A)	Contents, style, and form of rule
18.13(17A)	Agency rule-making record
18.14(17A)	Filing of rules
18.15(17A)	Effectiveness of rules prior to publication
18.16(17A)	General statements of policy
18.17(17A)	Review by agency of rules

CHAPTER 19 WAIVER AND VARIANCE RULES

19.1(17A)	Definition
19.2(17A)	Scope of chapter
19.3(17A)	Applicability
19.4(17A)	Criteria for waiver or variance
19.5(17A)	Filing of petition
19.6(17A)	Content of petition

19.7(17A)	Additional information
19.8(17A)	Notice
19.9(17A)	Hearing procedures
19.10(17A)	Ruling
19.11(17A)	Public availability
19.12(17A)	Summary reports
19.13(17A)	Cancellation of a waiver
19.14(17A)	Violations
19.15(17A)	Defense
19.16(17A)	Judicial review

CHAPTER 3
DEPOSIT AND SECURITY OF PUBLIC FUNDS IN SAVINGS AND LOANS
Rescinded **ARC 0463C**, IAB 11/28/12, effective 1/2/13